

116TH CONGRESS
2D SESSION

S. 4815

To provide for a National Disaster Safety Board.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20 (legislative day, OCTOBER 19), 2020

Mr. SCHATZ (for himself and Mr. CASSIDY) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 “Disaster Learning and
5 Life Saving Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ACT OF VIOLENCE.**—The term “act of vio-
9 lence” means any terrorism-related or other willful
10 act of human violence that causes loss of human life,
11 or human or economic injury, including an explosion,

1 arson, mass shooting, or attack by a hostile force, as
2 determined by the Board.

3 (2) BOARD.—The term “Board” means the Na-
4 tional Disaster Safety Board established under sec-
5 tion 3.

6 (3) CHAIRPERSON.—The term “Chairperson”
7 means the Chairperson of the Board appointed
8 under section 3.

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

13 (5) INCIDENT.—The term “incident” means a
14 natural hazard, public health incident, or other cir-
15 cumstance that the Board decides to review.

16 (6) INSTITUTION OF HIGHER EDUCATION AND
17 RESEARCH INSTITUTION.—The term “institution of
18 higher education and research institution” means—

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

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

1 (C) a laboratory described in section
2 308(c)(2) of the Homeland Security Act of
3 2002 (6 U.S.C. 188(c)(2));

4 (D) the National Domestic Preparedness
5 Consortium established under section 1204 of
6 the Implementing Recommendations of the 9/11
7 Commission Act of 2007 (6 U.S.C. 1102) and
8 the members of such Consortium; and

9 (E) a research institution associated with
10 an institution of higher education.

11 (7) NATURAL HAZARD.—The term “natural
12 hazard” means any naturally occurring hurricane,
13 tornado, storm, heat wave, flood, high water, wind-
14 driven water, wind storm, wildfire, wildland urban
15 interface fire, urban conflagration fire, tidal wave,
16 tsunami, earthquake, volcanic eruption, landslide,
17 mudslide, snowstorm, dust storm, drought, or com-
18 bination thereof, that causes or threatens to cause
19 loss of human life, or human or economic injury, as
20 determined by the Board.

21 (8) PUBLIC HEALTH INCIDENT.—The term
22 “public health incident” means any infectious dis-
23 ease outbreak or the public health and safety con-
24 sequences of chemical, radiological, and biological
25 events, as determined by the Board.

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

5 (10) TECHNOLOGICAL DISASTER.—The term
6 “technological disaster” means an incident that—

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

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

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

19 (12) TRIBAL GOVERNMENT.—The term “Tribal
20 government” means the governing body of any In-
21 dian or Alaska Native tribe, band, nation, pueblo,
22 village, or community that the Secretary of the Inte-
23 rior acknowledges to exist as an Indian tribe under
24 the Federally Recognized Indian Tribe List Act of
25 1994 (25 U.S.C. 5130 et seq.).

1 **SEC. 3. ESTABLISHMENT AND PURPOSE.**

2 (a) ORGANIZATION.—There is established in the execu-
3 tive branch a National Disaster Safety Board, which
4 shall be an independent establishment, as defined in sec-
5 tion 104 of title 5, United States Code.

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

7 (1) to reduce loss of life, injury, and economic
8 injury caused by future incidents by learning from
9 natural hazards and public health incidents, includ-
10 ing the impacts and underlying factors of such inci-
11 dents, in a standardized way;

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

19 (3) in carrying out reviews, analyses, and rec-
20 ommendations, is not to be accusatory in nature and
21 the Board shall not seek to find blame in any indi-
22 vidual or organization, or second-guess any relevant
23 authorities;

24 (4) to address systemic causes behind the loss
25 of life and human or economic injury in incidents,
26 including by recommending the augmentation of re-

1 sources available to entities responsible for man-
2 aging incident consequences; and

3 (5) while preventing economic injury as part of
4 the mission of the Board, when relevant, to prioritize
5 efforts that focus on lifesaving and injury preven-
6 tion, especially in disproportionately impacted com-
7 munities, as its work determines them to be.

8 **SEC. 4. GENERAL AUTHORITY.**

9 (a) **AUTHORITY TO REVIEW.**—

10 (1) **IN GENERAL.**—Subject to subsection (b),
11 the Board shall review and establish the facts, cir-
12 cumstances, and cause or probable cause of the loss
13 of life, human injury, and economic injury due to a
14 natural hazard or public health incident with 10 or
15 more fatalities or that meets the requirements de-
16 scribed in paragraph (5) or (6) of subsection (b)
17 that occurs after the date of enactment of this Act.

18 (2) **DUE TO A NATURAL HAZARD OR PUBLIC**
19 **HEALTH INCIDENT DEFINED.**—For purposes of
20 paragraph (1), the term “due to a natural hazard or
21 public health incident” means a fatality that, if not
22 for the natural hazard or public health incident, as
23 the case may be, would not have occurred within the
24 time frame of the incident, as defined by standards
25 developed by the Board.

1 (b) DETERMINATION OF WHETHER INCIDENT WAR-
2 RANTS BOARD REVIEW.—In carrying out subsection (a),
3 the Board—

4 (1) may begin the review of an incident, includ-
5 ing by monitoring the natural hazard or public
6 health incident and collecting facts, before the total
7 number of fatalities is known if the Board deter-
8 mines that the natural hazard or public health inci-
9 dent has the potential to cause 10 or more fatalities
10 at its onset, in accordance with the policies and pro-
11 cedures established by the Board;

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

16 (3) may, by a majority vote, decide to review
17 any natural hazard or public health incident that oc-
18 curs after the date of enactment of this Act upon re-
19 quest from a representative of an affected State,
20 Tribal government, or unit of local government, re-
21 gardless of the number of fatalities;

22 (4) may, by a majority vote, decide to review
23 any natural hazard or public health incident that oc-
24 curs after the date of enactment of this Act upon
25 recommendation by the Office for the Protection of

1 Disproportionately Impacted Communities of the
2 Board, which the Office may make because of the
3 incident's impacts on populations that are socially,
4 medically, or economically vulnerable, as decided by
5 the Office; and

6 (5) may, by a majority vote, decide to review a
7 natural hazard or public health incident that occurs
8 after the date of enactment of this Act if—

9 (A) the Board determines that information
10 may be gained by the review that will be useful
11 in reducing systemic causes behind the loss of
12 life and human or economic injury; and

13 (B) the incident—

14 (i) did not result in 10 or more fatali-
15 ties; and

16 (ii)(I) could have resulted in a large
17 number of fatalities if not for swift inter-
18 vention or a shift in the course of events;
19 or

20 (II) resulted in, as determined by the
21 Board—

22 (aa) a significant amount of eco-
23 nomic or infrastructure damage;

24 (bb) significant human displace-
25 ment; or

1 (cc) a significant number of se-
2 vere non-fatal injuries or cases of se-
3 vere illness; and

4 (6) shall, by majority vote, determine whether
5 each incident for which the President issues a major
6 disaster declaration under section 401 of the Robert
7 T. Stafford Disaster Relief and Emergency Assist-
8 ance Act (42 U.S.C. 5170) meets the criteria for re-
9 view under paragraph (5).

10 (c) NATURE OF REVIEW.—

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

13 (A) conduct the review to determine the
14 facts, conditions, and circumstances relating to
15 the loss of life, human injury, and economic in-
16 jury due to an incident;

17 (B) following an initial assessment of an
18 incident by the Board, notify any individual or
19 organization that the Board anticipates will be
20 affected by the review as to the extent of the
21 expected review response of the Board;

22 (C) use the results of the review under
23 subparagraph (A) to—

24 (i) determine how and why people die
25 and are injured during an incident; and

1 (ii) issue recommendations to prevent
2 or mitigate the loss of life, human injury,
3 or economic injury due to similar incidents;
4 and

5 (D) report on the facts and circumstances
6 of the incident review, including the pre-inci-
7 dent resilience or vulnerabilities of the incident
8 area or population.

9 (2) GENERALIZED NATURE OF REVIEWS.—A
10 review of loss of life and injury conducted by the
11 Board shall—

12 (A) be generalized;

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

14 (C) not aim to determine the exact indi-
15 vidual cause of death or injury of any affected
16 people.

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

20 (4) LIMITATION OF APPLICABILITY OF OTHER
21 ACTS.—

22 (A) ADMINISTRATIVE PROCEDURE ACT.—
23 Any review proceedings of the Board under this
24 Act shall not be—

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

3 (ii) conducted for the purpose of de-
4 termining the rights, liabilities, or blame of
5 any person, as the review is not an adju-
6 dicatory proceeding.

7 (B) PAPERWORK REDUCTION ACT.—Chap-
8 ter 35 of title 44, United States Code (com-
9 monly known as the “Paperwork Reduction
10 Act”), shall not apply to the review proceedings
11 of the Board under this Act.

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

15 (5) INITIATING REVIEWS.—The Board shall ini-
16 tiate a review of an incident by monitoring the situa-
17 tion and assessing available facts to determine the
18 appropriate review response, without interfering in
19 any ongoing lifesaving and life sustaining efforts un-
20 derway by other entities.

21 (6) ALIGNMENT AND COORDINATION.—In car-
22 rying out this Act, the Board shall coordinate with
23 Federal, State, local, and Tribal entities to—

24 (A) establish or adopt standard methods of
25 measuring the impacts of natural hazards and

1 accessing response capacity and capabilities to
2 maintain consistency and allow for the analysis
3 of trends over time;

4 (B) ensure that the standard data sets and
5 formats necessary for reviews developed under
6 subparagraph (A) are propagated among Fed-
7 eral, State, local, and tribal entities that may be
8 involved in response operations;

9 (C) leverage, to the extent practicable,
10 data collected using standard data sets and for-
11 mats established under subparagraph (B) by
12 Federal entities involved in response operations
13 to avoid any duplication of data collection; and

14 (D) during incident response operations,
15 coordinate with partners active in the operation
16 to collect data remotely or take other actions
17 that the Board finds necessary to align and co-
18 ordinate the requirements of the review with
19 ongoing operations, including through the re-
20 quirements of paragraph (7).

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

22 (A) recognize the role of incident command
23 systems to address incidents;

24 (B) participate in the incident command
25 system to identify and coordinate review needs

1 related to the preservation and collection of in-
2 formation and evidence; and

3 (C) shall collect information and evidence
4 from the incident command in a timely and rea-
5 sonable manner so as not to interfere with the
6 operations of the incident command.

7 (8) PARTIES TO THE REVIEW.—

8 (A) PARTICIPANTS.—Subject to subpara-
9 graph (B), the Board may invite 1 or more en-
10 tities to serve as a party in a review on a vol-
11 untary basis, and any party participant shall be
12 required to follow all directions and instructions
13 from the Board.

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

23 (C) REPRESENTATIVES OF ELIGIBLE ENTI-
24 TIES.—To the extent practicable, a representa-
25 tive proposed by an entity designated as a party

1 under subparagraph (A) to participate in the
2 review may not be an individual who had direct
3 involvement in the incident under review.

4 (D) REVOCATION OF PARTY STATUS.—A
5 designation as a party under subparagraph (A)
6 may be revoked or suspended by the Board if
7 the party fails to comply with assigned duties
8 and instructions, withholds information, or oth-
9 erwise acts in a manner prejudicial or disrup-
10 tive to a review.

11 (E) RULE OF CONSTRUCTION.—Nothing in
12 this paragraph shall be construed to establish a
13 right for any entity to participate in a Board
14 review as a party.

15 (F) INTERNAL REVIEW BY A PARTY.—To
16 assure coordination of concurrent efforts, a
17 party to a review that conducts or authorizes an
18 internal review of the processes and procedures
19 of the party as a result of an incident that the
20 Board is reviewing shall—

- 21 (i) inform the Board of the nature of
22 the review; and
23 (ii) provide to the Board findings
24 from the review.

1 (9) REVIEW PROCEDURES.—In addition to any
2 procedures required under this Act, the Board shall
3 determine and publish detailed review procedures as
4 the Board determines necessary.

5 (10) PRODUCTS.—The Board may use any me-
6 dium that will effectively convey the findings and
7 recommendations of the Board to the targeted audi-
8 ence of such findings or recommendations.

9 (d) REVIEW BY AFFECTED AUTHORITIES.—

10 (1) IN GENERAL.—When the Board has com-
11 pleted the findings and recommendations or other
12 products as a result of a review under this Act, the
13 Board shall provide all affected States, Tribal Gov-
14 ernments, and units of local government, or their
15 designees, an opportunity to review and comment
16 not later than 30 days before the publication of the
17 findings or recommendations.

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

1 and its findings and recommendations, as the Board
2 shall determine.

3 (e) DISPROPORTIONATELY IMPACTED COMMU-
4 NITIES.—

5 (1) IN GENERAL.—In carrying out a review of
6 an incident under this section, including in deter-
7 mining whether to launch a review, the Board shall
8 ensure the potential development of findings that
9 would benefit the prevention of loss of life and
10 human or economic injury to populations that are
11 socially, medically, or economically vulnerable, as de-
12 cided by the Board.

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

23 (f) COORDINATION WITH OTHER REVIEWS AND IN-
24 VESTIGATIONS.—

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

7 (2) PARTICIPATION BY OTHER AGENCIES.—The
8 Board shall provide for appropriate participation by
9 other departments, agencies, or instrumentalities in
10 a review conducted by the Board, except that an-
11 other department, agency, or instrumentality may
12 not influence the final findings of the Board.

13 (3) COORDINATION.—The Board shall coordi-
14 nate with all other Federal, State, Tribal, or local le-
15 gally mandated investigations or reviews and may
16 share information with those entities, according to
17 policies and procedures that the Board will provide,
18 to ensure that appropriate findings and rec-
19 ommendations to reduce loss of life, injury, and eco-
20 nomic injury caused by future incidents are pro-
21 duced as efficiently as possible.

22 (4) MEMORANDA OF UNDERSTANDING.—Not
23 later than 1 year after the date of enactment of this
24 Act, and biennially thereafter, the Chairman of the
25 Board shall enter into memoranda of understanding

1 with the Director of the National Institute of Stand-
2 ards and Technology, the Administrator of the Fed-
3 eral Emergency Management Agency, the Chairman
4 of the Chemical Safety Board, and the Chairman of
5 the National Transportation Safety Board, respec-
6 tively, and may enter into additional memoranda of
7 understanding with any other Federal entity that re-
8 quests such due to the relationship that the require-
9 ments of the Federal entity may have with the re-
10 quirements with the Board, in order to—

11 (A) determine the appropriate roles and re-
12 sponsibilities of the Board with respect to the
13 other agency or board;

14 (B) avoid any duplication of effort; and

15 (C) ensure that appropriate findings and
16 recommendations to reduce loss of life, injury,
17 and economic injury caused by future incidents
18 are provided.

19 (g) PARTICIPATION IN SUPPORT OF ANOTHER AGEN-
20 CY.—

21 (1) IN GENERAL.—

22 (A) INVESTIGATION OF ACTS OF VIO-
23 LENCE.—The Board may participate in an in-
24 vestigation of an act of violence in support of
25 another Federal department or agency, or other

1 Federal investigative body with statutory au-
2 thority to lead such an investigation, if the head
3 of the lead investigative agency determines that
4 the participation of the Board would be bene-
5 ficial to reduce the likelihood of the loss of life
6 and human or economic injury, for future simi-
7 lar incidents.

8 (B) INVESTIGATION OF TECHNOLOGICAL
9 INCIDENTS.—

10 (i) IN GENERAL.—The Board may
11 participate in an investigation of a techno-
12 logical incident—

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

23 (II) in the case of no statutory
24 authority for another Federal depart-
25 ment or agency, or other Federal in-

1 investigative body, to lead such an in-
2 vestigation, as the lead investigative
3 entity.

4 (ii) MEMORANDA OF UNDER-
5 STANDING.—Not later than 1 year after
6 the date of enactment of this Act, and bi-
7 ennially thereafter, the Chairman of the
8 Board shall enter into memoranda of un-
9 derstanding with the heads of appropriate
10 Federal agencies in order to—

11 (I) determine the appropriate
12 roles and responsibilities of the Board
13 in investigating technological incidents
14 with respect to the other agency;

15 (II) avoid any duplication of ef-
16 fort; and

17 (III) ensure that appropriate
18 findings and recommendations to re-
19 duce loss of life, injury, and economic
20 injury caused by future incidents are
21 provided.

22 (2) FINDINGS.—If the Board participates in an
23 act of violence or technological incident investigation
24 under subparagraph (A), the Board may issue inde-
25 pendent findings and recommendations notwith-

1 standing the outcome of any investigation conducted
2 by another Federal agency or other Federal inves-
3 tigative body.

4 (3) CRIMINAL CIRCUMSTANCES.—If the Attor-
5 ney General, in consultation with the Chairperson,
6 determines and notifies the Board that cir-
7 cumstances reasonably indicate that the act of vio-
8 lence or technological incident described in subpara-
9 graph (A) may have been caused by an intentional
10 criminal act, the Board shall relinquish investigative
11 priority to the responsible Federal law enforcement
12 entity.

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

23 (h) TECHNICAL ASSISTANCE.—The Board may make
24 the following types of technical assistance available to
25 Federal, State, Tribal, and local government agencies and

1 to private entities as designated by a Federal, State, Trib-
2 al, or local government agency:

3 (1) INDEPENDENT REVIEW.—The Board shall
4 disseminate best practices for the development of in-
5 ternal review organizations within State, Tribal, and
6 local governments.

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

9 (A) may provide technical assistance to
10 any entity identified as responsible for imple-
11 menting a recommendation under section
12 5(a)(1) to assist the entity in implementing the
13 recommendation; and

14 (B) to the extent possible, shall provide the
15 technical assistance described in subparagraph
16 (A) in coordination with technical assistance of-
17 fered by another Federal department or agency.

18 (3) PRIORITIZATION.—In offering technical as-
19 sistance under this subsection, the Board shall use
20 a risk-based method of prioritization, as the Board
21 determines appropriate.

22 (i) FINDINGS.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), not later than 1 year after the date on
25 which the Board initiates a review conducted under

1 this section, the Board shall make the findings and
2 relevant underlying data of the review available to
3 the public.

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

8 (A) provides an explanation for the exten-
9 sion; and

10 (B) make available to the public all avail-
11 able interim findings and underlying data.

12 **SEC. 5. RECOMMENDATIONS AND RESPONSES.**

13 (a) IN GENERAL.—If the Board issues a rec-
14 ommendation about an incident, the Board shall—

15 (1) explain the relationship between any rec-
16 ommendation and the results of a fact-finding re-
17 view;

18 (2) identify each relevant entity responsible for
19 making the change called for in the recommenda-
20 tion, including State, local, or private entities, as ap-
21 propriate;

22 (3) publish any responses to the recommenda-
23 tion publicly; and

24 (4) assess whether the responses adequately
25 lower the likelihood that a future similar incident

1 will result in loss of life, or human or economic in-
2 jury in the view of the Board.

3 (b) FEDERAL RESPONSES TO RECOMMENDATIONS.—

4 (1) IN GENERAL.—All Federal departments and
5 agencies identified in a recommendation made by the
6 Board shall reply to the recommendations not later
7 than 90 days after the date on which the rec-
8 ommendation is published by the Board.

9 (2) RESPONSE DESCRIBED.—A response under
10 paragraph (1) made by a Federal department or
11 agency shall include—

12 (A) whether the department or agency in-
13 tends to adopt the recommendation in whole, in
14 part, or not at all;

15 (B) an explanation of the reasons for only
16 adopting the recommendation in part or not at
17 all; and

18 (C) a proposed timetable for completing
19 the action the Federal department or agency
20 has agreed to.

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

24 (A) track the progress of the department
25 or agency toward completion; and

1 (B) provide an update to the Board, to be
2 published publicly, periodically and not less fre-
3 quently than annually.

4 (c) PUBLIC AVAILABILITY.—

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

11 (2) EXTENSION OF DEADLINE.—The Chair-
12 person of the Board may extend the 1-year period
13 described in paragraph (1) if the Chairperson, before
14 the end of such 1-year period—

15 (A) provides an explanation for the exten-
16 sion; and

17 (B) make available to the public any avail-
18 able interim response to the recommendation
19 and underlying data.

20 (d) DISSEMINATION.—The Board shall propagate
21 each recommendation issued under this section, including
22 by—

23 (1) incorporating the recommendation, and any
24 related findings, into training material used by Fed-
25 eral, State, Tribal, and private training facilities

1 specializing in building resilience to and responding
2 to and recovering from natural hazards and public
3 health incidents, as the Board deems appropriate;

4 (2) coordinating with professional associations
5 related to building resilience to and responding to
6 and recovering from natural hazards and public
7 health incidents;

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

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

13 **SEC. 6. REPORTS AND STUDIES.**

14 (a) STUDIES AND OTHER REPORTS.—

15 (1) IN GENERAL.—The Board shall periodically
16 submit a report containing the information described
17 in paragraph (2) to—

18 (A) Congress;

19 (B) any department, agency, or instrumen-
20 tality of the Federal Government concerned
21 with natural hazards and public health safety;

22 (C) all State and Tribal governments; and

23 (D) the general public.

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

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

3 (B) an examination of techniques and
4 methods of evaluating measures to protect the
5 public from incidents and periodically publish
6 recommended procedures for reviews;

7 (C) evaluation and examination of the ef-
8 fectiveness of the findings of the Board about
9 the natural hazard and public health resilience
10 of other departments, agencies, and instrumen-
11 talities of the Federal Government and their ef-
12 fectiveness in preventing loss of life, or human
13 or economic injury; and

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

19 (b) BIENNIAL REPORT.—Not later than June 1,
20 2022, and once every 2 years thereafter, the Board shall
21 submit a report to Congress, which shall include—

22 (1) a statistical and analytical summary of the
23 reviews conducted and reviewed by the Board during
24 the prior 2 calendar years;

1 (2) a survey and summary of the recommenda-
2 tions made by the Board and the observed response
3 to each recommendation, including the classification,
4 containing a written justification and explanation of
5 each recommendation as—

6 (A) open, if, in the determination of the
7 Board, sufficient action to fulfill the intent of
8 the recommendation has not been taken and
9 still should be;

10 (B) closed, if, in the determination of the
11 Board, sufficient action to fulfill the intent of
12 the recommendation has been taken and no fur-
13 ther action is necessary; and

14 (C) outdated, if, in the determination of
15 the Board, the recommendation is no longer rel-
16 evant because of any change in circumstances
17 or actions by parties other than the intended
18 recipient of the recommendation;

19 (3) an assessment of efforts of Federal, State,
20 Tribal, and local governments to respond to rec-
21 ommendations made by the Board, if such entities
22 have voluntarily provided information to the Board
23 on the progress of the entity;

1 (4) a description of the training undertaken by
2 the Board and its staff and persons sponsored by
3 the Board;

4 (5) a list of natural hazards and public health
5 incidents that caused 10 or more fatalities that the
6 Board did not review and a recommendation with
7 justification by the Board of whether similar inci-
8 dents should be reviewed in the future;

9 (6) a recommendation on how, if at all, the
10 thresholds and triggers for a review by the Board
11 should change;

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

16 (8) a list of all requests for review from Gov-
17 ernors of States and territories and chief executives
18 of Tribal governments or recommended by the office
19 established under section 7(f)(2) that the Board re-
20 jected, including comments and recommendations
21 from the Board regarding whether similar incidents
22 should be reviewed in the future; and

23 (9) a list of ongoing reviews that have exceeded
24 the expected time allotted for completion by Board

1 order and an explanation for the additional time re-
2 quired to complete each such review.

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

5 (1) incorporating the information into training
6 material used by Federal, State, Tribal, and private
7 training facilities specializing in building resilience
8 to and responding to and recovering from natural
9 hazards and public health incidents, as the Board
10 deems appropriate;

11 (2) coordinating with professional associations
12 related to building resilience to and responding to
13 and recovering from natural hazards and public
14 health incidents;

15 (3) collaborating with relevant Federal, State,
16 and Tribal authorities and private organizations;
17 and

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

20 **SEC. 7. APPOINTMENT AND ORGANIZATION.**

21 (a) APPOINTMENT OF MEMBERS.—

22 (1) IN GENERAL.—The Board shall be com-
23 posed of 7 members, who shall, in accordance with
24 paragraph (2) and subject to paragraph (3), be ap-

1 pointed by the President, by and with the advice and
2 consent of the Senate.

3 (2) PROCEDURE.—

4 (A) INITIAL APPOINTMENTS.—The Presi-
5 dent shall appoint the initial 7 members of the
6 Board from among a list of 14 individuals pro-
7 vided by both houses of Congress, of which—

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

10 (ii) the minority leader of the Senate
11 shall provide the names of 3 individuals;

12 (iii) the Speaker of the House of Rep-
13 resentatives shall provide the names of 4
14 individuals; and

15 (iv) the minority leader of the House
16 of Representatives shall provide the names
17 of 3 individuals.

18 (B) CONSULTATION.—In making appoint-
19 ments under this paragraph, the President shall
20 consult with the National Academies of
21 Sciences, Engineering, and Medicine and rel-
22 evant professional associations and leaders in
23 the private sector.

24 (C) SUBSEQUENT APPOINTMENTS.—Any
25 vacancy of the Board shall be filled in the same

1 manner as the original appointment, except
2 that subparagraph (A) shall not apply.

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

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

7 (B) all members shall be appointed on the
8 basis of technical qualification, professional
9 standing, and demonstrated knowledge in emer-
10 gency management, fire management, emer-
11 gency medical services, public-health, engineer-
12 ing, social science, or behavioral science;

13 (C) a minimum of 2 members shall have
14 experience working at the State or municipal
15 level in 1 of the fields described in subpara-
16 graph (B); and

17 (D) a minimum of 2 members shall have
18 demonstrated professional experience working
19 with populations that have historically been
20 more vulnerable to incidents because of their
21 race, color, nationality, sex, age, disability,
22 English proficiency, or economic status.

23 (b) TERMS OF OFFICE AND REMOVAL.—

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

4 (2) FILLING OF VACANCY.—An individual ap-
5 pointed to fill a vacancy occurring before the expira-
6 tion of the term for which the predecessor of that
7 individual was appointed is appointed for the re-
8 mainder of that term.

9 (3) CONTINUATION UNTIL SUCCESSOR IS AP-
10 POINTED.—When the term of office of a member
11 ends, the member may continue to serve until a suc-
12 cessor is appointed and confirmed.

13 (4) REMOVAL.—The President may remove a
14 member only for inefficiency, neglect of duty, or
15 malfeasance in office. Immediately upon removing a
16 member of the Board, the President shall issue a
17 public statement that details how the actions of the
18 removed member met the criteria of this paragraph.

19 (c) CHAIRPERSON AND VICE CHAIRPERSON.—

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

24 (2) VICE CHAIRPERSON.—The President shall
25 designate a member appointed under subsection (b)

1 to serve as the Vice Chairperson of the Board and
2 if the Chairperson is absent or unable to serve, or
3 if the position of Chairperson is vacant, the Vice
4 Chairperson shall act as the Chairperson.

5 (3) TERM OF OFFICE.—The Chairperson and
6 Vice Chairperson shall each serve in such position
7 for a term of 3 years.

8 (d) DUTIES AND POWERS OF CHAIRPERSON.—

9 (1) IN GENERAL.—The Chairperson shall be the
10 chief executive and administrative officer of the
11 Board.

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

14 (A) appoint and supervise officers and em-
15 ployees, other than regular and full-time em-
16 ployees in the immediate offices of another
17 member, necessary to carry out this Act;

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

20 (C) distribute business among the officers,
21 employees, and administrative units of the
22 Board; and

23 (D) supervise the expenditures of the
24 Board.

25 (e) QUORUM.—

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

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

9 (3) CHAIRPERSON.—Either the Chairperson or
10 Vice Chairperson shall be present for a quorum to
11 be established.

12 (f) OFFICES.—

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

- 16 (A) operations;
- 17 (B) science and methodology;
- 18 (C) review and evaluation;
- 19 (D) communications;
- 20 (E) external coordination; or
- 21 (F) technical assistance.

22 (2) OFFICE FOR THE PROTECTION OF DIS-
23 PROPORTIONATELY IMPACTED COMMUNITIES.—

24 (A) IN GENERAL.—The Board shall estab-
25 lish an office to review and make recommenda-

1 tions to mitigate and prevent the loss of life, or
2 human or economic injury for vulnerable popu-
3 lations, including populations that may be more
4 vulnerable because of their race, color, religion,
5 nationality, sex, age, disability, English pro-
6 ficiency, or economic status, or other demo-
7 graphic characteristics that the Board may de-
8 termine appropriate.

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

11 (i) provide recommendations to the
12 Board for incidents to review in accordance
13 with section 4(b)(4) that do not otherwise
14 meet the requirements of section 4(b);

15 (ii) determine and maintain a list spe-
16 cific demographic, economic, social, and
17 health characteristics of populations that
18 historically have shown to be disproportion-
19 ately impacted by incidents;

20 (iii) during a review conducted by the
21 Board, provide research and analysis on
22 how the incident impacts populations that
23 the Office determines to be disproportion-
24 ately impacted;

1 (iv) provide recommendations for each
2 review conducted by the Board and for
3 each report developed under section 6 on
4 actions that can be taken to reduce the im-
5 pact to populations that are found to be
6 disproportionately impacted under clause
7 (ii); and

8 (v) provide training, and establish
9 training requirements, for Board members
10 and staff in the fields of diversity, inclu-
11 sion, and equity in consultation with orga-
12 nizations specializing in those fields.

13 (3) REGIONAL OFFICES.—In establishing offices
14 under this subsection, the Board may establish re-
15 gional offices across the United States to facilitate
16 collaboration, coordination, and the dissemination of
17 findings, recommendations, and best practices to
18 State, Tribal, and local governments and the private
19 sector in such regions as the Board determines ap-
20 propriate.

21 (4) PURPOSE.—Each office established under
22 this subsection shall enable the Board to review, re-
23 port on, and issue recommendations to prevent the
24 loss of life, human injury, and economic injury and

1 deliver technical assistance to disseminate best prac-
2 tices in accordance with this Act.

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

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

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

11 (3) review the fees, rents, and other charges im-
12 posed by the Board for services and things of value
13 it provides and suggest appropriate revisions to
14 those charges to reflect costs incurred by the Board
15 in providing those services and things of value.

16 (h) BOARD MEMBER STAFF.—

17 (1) IN GENERAL.—Each member of the Board
18 shall appoint and supervise regular and full-time em-
19 ployees in his or her immediate office as long as any
20 such employee has been approved for employment by
21 the designated agency ethics official under the same
22 guidelines that apply to all employees of the Board.

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

1 (A) the member of the Board making the
2 appointment shall determine which grade of the
3 General Schedule most closely corresponds with
4 respect to the duties and functions of the posi-
5 tion to which the individual is appointed; and

6 (B) during the period of the appoint-
7 ment—

8 (i) the individual shall be compensated
9 at the appropriate rate of pay for the
10 grade of the General Schedule with respect
11 to which the determination is made under
12 subparagraph (A); and

13 (ii) for the purposes of title 5, United
14 States Code, and the rules issued under
15 that title, the individual shall be considered
16 to be an employee, as that term is defined
17 in section 5331(a) of title 5, United States
18 Code.

19 (3) LIMITATION.—Except for the Chairperson,
20 the appointment authority in paragraph (1) shall be
21 limited to the number of full-time equivalent posi-
22 tions, in addition to 1 senior professional staff posi-
23 tion at a level not to exceed the GS–15 level of the
24 General Schedule and 1 administrative staff posi-
25 tion, allocated to each member of the Board through

1 the annual budget and allocation process of the
2 Board.

3 (i) DETAILED STAFF.—

4 (1) FEDERAL EMPLOYEES.—

5 (A) IN GENERAL.—Upon request of the
6 Board, the head of an agency described in sub-
7 paragraph (B), or any other Federal depart-
8 ment or agency that the Board may request,
9 may detail, on a reimbursable basis, any of the
10 personnel of that department or agency to the
11 Board to assist the Board in carrying out the
12 duties of the Board under this Act.

13 (B) RELEVANT AGENCIES.—For purposes
14 of subparagraph (A), the following are agencies
15 described in this subparagraph:

16 (i) The Federal Emergency Manage-
17 ment Agency.

18 (ii) The Cybersecurity and Infrastruc-
19 ture Security Agency of the Department of
20 Homeland Security.

21 (iii) The National Oceanic and Atmos-
22 pheric Administration, including the Na-
23 tional Weather Service.

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

1 (v) The Department of Health and
2 Human Services.

3 (vi) The National Institutes of
4 Health.

5 (vii) The Centers for Disease Control
6 and Prevention.

7 (viii) The Coast Guard.

8 (ix) The National Transportation
9 Safety Board.

10 (x) The National Institute of Stand-
11 ards and Technology.

12 (xi) The Government Accountability
13 Office.

14 (xii) The Department of the Interior,
15 including the United States Geological
16 Survey.

17 (xiii) Any Office of the Inspector Gen-
18 eral.

19 (xiv) The Small Business Administra-
20 tion.

21 (xv) The Chemical Safety and Hazard
22 Investigation Board.

23 (xvi) The Department of Housing and
24 Urban Development.

25 (xvii) The Department of Agriculture.

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

3 (A) IN GENERAL.—The Board may enter
4 into agreements with State, local, and Tribal
5 governments and relevant nonprofit institutions
6 of higher education and research institutions to
7 request staff, with specialized experience that
8 the Board determines relevant, to be detailed to
9 the Board, on a reimbursable basis, and shall
10 consult with relevant associations and organiza-
11 tions of those entities in developing an efficient
12 process for requesting and receiving detailed
13 staff.

14 (B) COMPENSATION.—The Board shall en-
15 sure that any staff members detailed to the
16 Board under this paragraph are compensated
17 equitably and shall pay differences in salaries
18 based on the experience of said staff and in
19 consultation with the Office of Personnel Man-
20 agement.

21 (3) TERM OF DETAIL.—Any staff member de-
22 tailed to the Board under this section shall be de-
23 tailed for a term of 1 year and such detail may be
24 extended for not more than 2 1-year terms.

25 (4) LIMITATIONS.—Under this subsection—

1 (A) not more than 25 percent of the total
2 number of staff members working for the
3 Board at any time may be detailees or other-
4 wise nonpermanent staff;

5 (B) a detailee shall serve as an adviser or
6 supplemental professional staff in any office es-
7 tablished by the Board under subsection (g);
8 and

9 (C) a detailee may not—

10 (i) determine any final findings or rec-
11 ommendations; and

12 (ii) be the sole decisionmaker in re-
13 view or evaluation methodologies.

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

16 (k) OPEN MEETINGS.—

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

21 (2) NONPUBLIC COLLABORATIVE DISCUS-
22 SIONS.—

23 (A) IN GENERAL.—Notwithstanding sec-
24 tion 552b of title 5, United States Code, a ma-
25 jority of the members may hold a meeting that

1 is not open to public observation to discuss offi-
2 cial agency business, if—

3 (i) no formal or informal vote or other
4 official agency action is taken at the meet-
5 ing;

6 (ii) each individual present at the
7 meeting is a member or an employee of the
8 Board;

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

12 (iv) the General Counsel of the Board
13 is present at the meeting; and

14 (v) the records of the meeting, includ-
15 ing the names of the individuals in attend-
16 ance, time, place, and summary to be as
17 thorough as the Board determines to be
18 prudent, are posted publicly and online.

19 (B) DISCLOSURE OF NONPUBLIC COLLABO-
20 RATIVE DISCUSSIONS.—Except as provided
21 under subparagraphs (C) and (D), not later
22 than 2 business days after the conclusion of a
23 meeting under subparagraph (A), the Board
24 shall make available to the public, in a place
25 easily accessible to the public—

1 (i) a list of the individuals present at
2 the meeting; and

3 (ii) a summary of the matters, includ-
4 ing key issues, discussed at the meeting,
5 except for any matter the Board properly
6 determines may be withheld from the pub-
7 lic under section 552b(c) of title 5, United
8 States Code.

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

15 (D) ACTIVE REVIEWS.—If a discussion
16 under subparagraph (A) directly relates to an
17 active review, the Board shall make the disclo-
18 sure under subparagraph (B) on the date the
19 Board adopts the final report.

20 (E) PRESERVATION OF OPEN MEETINGS
21 REQUIREMENTS FOR AGENCY ACTION.—Noth-
22 ing in this paragraph may be construed to limit
23 the applicability of section 552b of title 5,
24 United States Code, with respect to a meeting

1 of the members other than that described in
2 this paragraph.

3 (F) STATUTORY CONSTRUCTION.—Nothing
4 in this paragraph may be construed—

5 (i) to limit the applicability of section
6 552b of title 5, United States Code, with
7 respect to any information which is pro-
8 posed to be withheld from the public under
9 subparagraph (B)(ii); or

10 (ii) to authorize the Board to withhold
11 from any individual any record that is ac-
12 cessible to that individual under section
13 552a of title 5, United States Code.

14 **SEC. 8. METHODOLOGY.**

15 (a) IN GENERAL.—The Board shall conduct each re-
16 view, issue each recommendation, develop each report, and
17 deliver all technical assistance authorized under this Act
18 using the methods that are in accordance with relevant
19 professional best practices, including those by analogous
20 review organizations, academia, and government and pri-
21 vate organizations.

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

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

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

4 (c) REQUIREMENT.—In establishing the methodolo-
5 gies of the Board under this section, the Board shall incor-
6 porate all relevant information from relevant Federal,
7 State, and local entities, including past experience with
8 similar incidents, exercises, risk assessments, and all other
9 past research and analysis.

10 (d) TRANSPARENCY.—The Chairperson shall include
11 with each review report in which a recommendation is
12 issued by the Board a methodology section detailing the
13 process and information underlying the selection of each
14 recommendation.

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

18 (1) a brief summary of the Board’s collection
19 and analysis of the specific information most rel-
20 evant to the recommendation;

21 (2) a description of the Board’s use of external
22 information, including studies, reports, and experts,
23 other than the findings of a specific review, if any
24 were used to inform or support the recommendation,
25 including a brief summary of the specific resilience

1 benefits and other effects identified by each study,
2 report, or expert; and

3 (3) a brief summary of actions, including im-
4 portant examples, taken by regulated entities before
5 the publication of the recommendation, to the extent
6 such actions are known to the Board, that were con-
7 sistent with the recommendation.

8 (f) SAVINGS CLAUSE.—

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

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

13 (B) to delay the issuance of an urgent rec-
14 ommendation that the Board has determined
15 must be issued to avoid immediate death, or
16 human or economic injury; or

17 (C) to limit the number of examples the
18 Board may consider before issuing a rec-
19 ommendation.

20 (2) LIMITATION.—Notwithstanding paragraph
21 (1), the Board shall publish the methodology re-
22 quired under this section not later than 30 days
23 after the date on which the review is initially pub-
24 lished.

1 **SEC. 9. ADMINISTRATIVE.**

2 (a) **AUTHORITY.**—

3 (1) **IN GENERAL.**—The Board, and when au-
4 thORIZED by the Board, a member of the Board, an
5 administrative law judge employed by or assigned to
6 the Board, or an officer or employee designated by
7 the Chairperson, may conduct hearings to carry out
8 this Act, administer oaths, and require, by subpoena
9 or otherwise, necessary witnesses and evidence.

10 (2) **SUBPOENA AUTHORITY.**—A witness or evi-
11 dence in a hearing under paragraph (1) of this sub-
12 section may be summoned or required to be pro-
13 duced from any place in the United States to the
14 designated place of the hearing. A witness sum-
15 moned under this subsection is entitled to the same
16 fee and mileage the witness would have been paid in
17 a court of the United States.

18 (3) **REQUIREMENT.**—A subpoena shall be
19 issued under the signature of the Chairperson or the
20 Chairperson's designee, but may be served by any
21 person designated by the Chairperson.

22 (4) **ENFORCEMENT.**—If a person disobeys a
23 subpoena, order, or inspection notice of the Board,
24 the Board may bring a civil action in a district court
25 of the United States to enforce the subpoena, order,
26 or notice. An action under this paragraph may be

1 brought in the judicial district in which the person
2 against whom the action is brought resides, is found,
3 or does business. The court may punish a failure to
4 obey an order of the court to comply with the sub-
5 poena, order, or notice as a contempt of court.

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

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

10 (2) make agreements and other transactions
11 necessary to carry out this Act without regard to
12 subsections (b), (c), and (d) of section 6101 of title
13 41, United States Code;

14 (3) use, when appropriate, available services,
15 equipment, personnel, and facilities of a department,
16 agency, or instrumentality of the United States Gov-
17 ernment on a reimbursable or other basis;

18 (4) confer with employees and use services,
19 records, and facilities of State and local govern-
20 mental authorities;

21 (5) appoint advisory committees composed of
22 qualified private citizens and officials of the Govern-
23 ment and State and local governments as appro-
24 priate;

1 (6) accept voluntary and uncompensated serv-
2 ices notwithstanding another law;

3 (7) make contracts with private entities to carry
4 out studies related to duties and powers of the
5 Board; and

6 (8) negotiate and enter into agreements with
7 individuals and private entities and departments,
8 agencies, and instrumentalities of the Federal Gov-
9 ernment, State, Tribal, and local governments, and
10 governments of foreign countries for the provision of
11 facilities, technical services, or training in research
12 theory and techniques, and require that such entities
13 provide appropriate consideration for the reasonable
14 costs of any facilities, goods, services, or training
15 provided by the Board.

16 (c) COLLECTION OF FUNDS.—The Board shall de-
17 posit in the Treasury of the United States amounts re-
18 ceived under subsection (b)(8) of this subsection to be
19 credited as offsetting collections to the appropriation of
20 the Board. The Board shall maintain an annual record
21 of collections received under subsection (b)(8).

22 (d) SUBMISSION OF CERTAIN COPIES TO CON-
23 GRESS.—

24 (1) IN GENERAL.—When the Board submits to
25 the President or the Director of the Office of Man-

1 agement and Budget a budget estimate, budget re-
2 quest, supplemental budget estimate, other budget
3 information, a legislative recommendation, prepared
4 testimony for congressional hearings, or comments
5 on legislation, the Board must submit a copy to
6 Congress at the same time.

7 (2) LIMITATION.—An officer, department,
8 agency, or instrumentality of the Government may
9 not require the Board to submit the estimate, re-
10 quest, information, recommendation, testimony, or
11 comments to another officer, department, agency, or
12 instrumentality of the Government for approval,
13 comment, or review before being submitted to Con-
14 gress.

15 (3) BUDGET PROCESS.—The Board shall de-
16 velop and approve a process for the Board’s review
17 and comment or approval of documents submitted to
18 the President, Director of the Office of Management
19 and Budget, or Congress under this subsection.

20 (e) LIAISON COMMITTEES.—The Chairperson may
21 determine the number of committees that are appropriate
22 to maintain effective liaison with other departments, agen-
23 cies, and instrumentalities of the Federal Government,
24 State and local governmental authorities, and independent
25 standard-setting authorities that carry out programs and

1 activities related to its work. The Board may designate
2 representatives to serve on or assist those committees.

3 (f) INQUIRIES.—The Board, or an officer or employee
4 of the Board designated by the Chairperson, may conduct
5 an inquiry to obtain information related to natural hazard
6 and public health safety after publishing notice of the in-
7 quiry in the Federal Register. The Board or designated
8 officer or employee may require by order a department,
9 agency, or instrumentality of the Federal Government, a
10 State, Tribal, or local governmental authority, or a person
11 transporting individuals or property in commerce to sub-
12 mit to the Board a written report and answers to requests
13 and questions related to a duty or power of the Board.
14 The Board may prescribe the time within which the report
15 and answers must be given to the Board or to the des-
16 ignated officer or employee. Copies of the report and an-
17 swers shall be made available for public inspection.

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

20 (h) OVERTIME PAY.—

21 (1) IN GENERAL.—Subject to the requirements
22 of this section and notwithstanding paragraphs (1)
23 and (2) of section 5542(a) of title 5, United States
24 Code, for an employee of the Board whose basic pay
25 is at a rate which equals or exceeds the minimum

1 rate of basic pay for GS–10 of the General Schedule,
2 the Board may establish an overtime hourly rate of
3 pay for the employee with respect to work performed
4 in the field (including travel to or from) and other
5 work that is critical to a review in an amount equal
6 to one and one-half times the hourly rate of basic
7 pay of the employee. All of such amount shall be
8 considered to be premium pay.

9 (2) LIMITATION ON OVERTIME PAY TO AN EM-
10 PLOYEE.—An employee of the Board may not re-
11 ceive overtime pay under paragraph (1), for work
12 performed in a calendar year, in an amount that ex-
13 ceeds 25 percent of the annual rate of basic pay of
14 the employee for such calendar year.

15 (3) BASIC PAY DEFINED.—In this subsection,
16 the term “basic pay” includes any applicable local-
17 ity-based comparability payment under section 5304
18 of title 5, United States Code (or similar provision
19 of law) and any special rate of pay under section
20 5305 of such title 5 (or similar provision of law).

21 (4) ANNUAL REPORT.—Not later than January
22 31, 2022, and annually thereafter, the Board shall
23 transmit to Congress a report identifying the total
24 amount of overtime payments made under this sub-
25 section in the preceding fiscal year, and the number

1 of employees whose overtime pay under this sub-
2 section was limited in that fiscal year as a result of
3 the 25 percent limit established by paragraph (2).

4 (i) ENTRY AND INSPECTION.—

5 (1) IN GENERAL.—An officer or employee of
6 the Board—

7 (A) on display of appropriate credentials
8 and written notice of authority, may—

9 (i) enter an area where an incident
10 has occurred;

11 (ii) take such actions as are necessary
12 to conduct a review under this section, so
13 long as the actions do not interfere with
14 ongoing lifesaving and life-sustaining oper-
15 ations; and

16 (iii) during reasonable hours, inspect
17 any record, including an electronic record,
18 process, control, or facility related to an in-
19 cident under this Act.

20 (2) REQUIREMENT.—The Board shall use ut-
21 most discretion to prevent interference with ongoing
22 response efforts, including by developing review pro-
23 cedures with input from relevant authorities nation-
24 wide.

1 **SEC. 10. DISCLOSURE, AVAILABILITY, AND USE OF INFOR-**
2 **MATION.**

3 (a) **DISCLOSURE OF INFORMATION.—**

4 (1) **IN GENERAL.—**Except as provided in sub-
5 sections (b), (c), (d), and (f) of this section, a copy
6 of a record, information, or review submitted or re-
7 ceived by the National Disaster Safety Board, or a
8 member or employee of the Board, shall be posted
9 publicly.

10 (2) **RULE OF CONSTRUCTION.—**Nothing in this
11 subsection shall be construed to require the release
12 of information described in section 552(b) of title 5,
13 United States Code, or protected from disclosure by
14 another law of the United States.

15 (b) **TRADE SECRETS.—**

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

19 (A) to another department, agency, or in-
20 strumentality of the United States Government
21 when requested for official use;

22 (B) to a committee of Congress having ju-
23 risdiction over the subject matter to which the
24 information is related, when requested by that
25 committee;

1 (C) in a judicial proceeding under a court
2 order that preserves the confidentiality of the
3 information without impairing the proceeding;
4 and

5 (D) to the public to protect health and
6 safety after giving notice to any interested per-
7 son to whom the information is related and an
8 opportunity for that person to comment in writ-
9 ing, or orally in closed session, on the proposed
10 disclosure, if the delay resulting from notice
11 and opportunity for comment would not be det-
12 rimental to health and safety.

13 (2) REQUIREMENT.—Information disclosed
14 under paragraph (1) of this subsection may be dis-
15 closed only in a way designed to preserve its con-
16 fidentiality.

17 (3) PROTECTION OF VOLUNTARY SUBMISSION
18 OF INFORMATION.—Notwithstanding any other pro-
19 vision of law, neither the Board, nor any agency re-
20 ceiving information from the Board, shall disclose
21 voluntarily provided safety-related information if
22 that information is not related to the exercise of the
23 Board's review authority under this Act and if the
24 Board finds that the disclosure of the information

1 would inhibit the voluntary provision of that type of
2 information.

3 (c) RECORDINGS AND TRANSCRIPTS.—

4 (1) CONFIDENTIALITY OF RECORDINGS.—Ex-
5 cept as provided in paragraph (2), the Board may
6 not disclose publicly any part of an original record-
7 ing or transcript of oral communications or original
8 and contemporary written communications between
9 Federal, State, Tribal, or local officials responding
10 to an incident under review by the Board.

11 (2) EXCEPTION.—Subject to subsections (b)
12 and (g), the Board shall make public any part of a
13 transcript, any written depiction of visual informa-
14 tion obtained from an audio or video recording, or
15 any still image obtained from a recording the Board
16 decides is relevant to the incident—

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

19 (B) if the Board does not hold a public
20 hearing, at the time a majority of the other fac-
21 tual reports on the incident are placed in the
22 public docket.

23 (3) REFERENCES TO INFORMATION IN MAKING
24 SAFETY RECOMMENDATIONS.—This subsection does
25 not prevent the Board from referring at any time to

1 recorded or written information in making safety
2 recommendations.

3 (d) FOREIGN REVIEWS.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, neither the Board, nor any agency
6 receiving information from the Board, shall disclose
7 records or information relating to its participation in
8 foreign incident review, except that—

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

14 (B) the Board may disclose records and in-
15 formation when authorized to do so by the
16 country conducting the review.

17 (2) SAFETY RECOMMENDATIONS.—Nothing in
18 this subsection shall restrict the Board at any time
19 from referring to foreign review information in mak-
20 ing safety recommendations.

21 (e) PRIVACY PROTECTIONS.—Before making public
22 any still image obtained from a video recorder under sub-
23 section (c)(2) or subsection (d)(2), the Board shall take
24 such action as appropriate to protect from public dislo-

1 sure any information that readily identifies an individual,
2 including a decedent.

3 **SEC. 11. TRAINING.**

4 (a) **USE OF TRAINING FACILITIES.**—The Board may
5 use, on a reimbursable basis, the services of any training
6 facility in the Federal Government, including those oper-
7 ated by the Department of Homeland Security, Depart-
8 ment of Health and Human Services, and Department of
9 Commerce. The responsible department or agency shall
10 make such training facility and any relevant training
11 course available to—

12 (1) the Board for safety training of employees
13 of the Board in carrying out their duties and pow-
14 ers; and

15 (2) other relevant personnel of the United
16 States Government, State and local governments,
17 governments of foreign countries, interstate authori-
18 ties, and private organizations the Board designates
19 in consultation with the relevant departments and
20 agencies.

21 (b) **FEEES.**—Training shall be provided at a reason-
22 able fee established periodically by the Board in consulta-
23 tion with the relevant departments and agencies. The fee
24 shall be paid directly to the relevant departments and
25 agencies, and shall be deposited in the Treasury.

1 (c) TRAINING OF BOARD EMPLOYEES AND OTH-
2 ERS.—The Board may conduct training of its employees
3 in those subjects necessary for proper performance. The
4 Board may also authorize attendance at courses given
5 under this subsection by other government personnel, per-
6 sonnel of foreign governments, and personnel from indus-
7 try or otherwise who have a requirement for training. The
8 Board may require non-Board personnel to reimburse
9 some or all of the training costs, and amounts so reim-
10 bursed shall be credited to the appropriation of the Board
11 as offsetting collections.

12 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—There are authorized to be appro-
14 priated, to remain available until expended, for the pur-
15 poses of this Act—

- 16 (1) \$25,000,000 for fiscal year 2021;
17 (2) \$40,000,000 for fiscal year 2022;
18 (3) \$50,000,000 for fiscal year 2023; and
19 (4) \$60,000,000 for fiscal year 2024.

20 (b) 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 2021;

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 (c) 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. 13. 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) AUTHORIZATIONS 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. 14. 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.

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