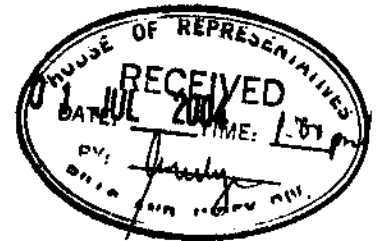


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 225



Introduced by Hon. Rozzano Rufino B. Biazon

EXPLANATORY NOTE

Webster's dictionary defines "disaster" as a sudden calamitous event producing great material damage, loss and distress. It is a disturbing fact that disasters have remained a constant problem in the transportation industry, be it air, land or sea. These tragedies cause much damage to lives and properties, with losses amounting to at least 2 to 3% of the country's gross domestic product (GDP) each year. Further, the economic losses are reflected mainly in the victim's productive year that are taken away by their untimely deaths. The death and injuries due to various accidents result in considerable waste of country's resources and cause grief to the family and friends of the victim.

Recent events have shown that the transportation industry has experienced several major catastrophies. In the land transportation sector, a public utility bus loaded with passengers was washed away into a river in Isabela province by rampaging floodwaters. The most recent tragedy that hit the transportation industry was the crashlanding into the waters of Manila Bay of a Laoag Airlines Fokker plane where at least fourteen (14) of its passengers perished.

The government has responded to every transportation disaster by forming fact-finding bodies to investigate the cause or causes of the accident. These bodies were tasked to pinpoint responsibility for such tragedies and review such regulations and policies to prevent similar incidents from happening in the future. However, the recent disasters are testaments to the inadequate response of government towards the prevention of similar catastrophes. These tragedies could have been avoided had government initiated proactive measures designed to ensure "safety consciousness" among the owners of public utilities as well as the regulatory agencies mandated to monitor their operations.

To advance transportation safety consciousness, there is an urgent need to create the National Transportation and Safety Board (NTSB) which shall be independent, non-regulatory agency shall undertake to ensure thorough and impartial investigations of transportation accidents. It shall be primarily responsible for the analysis, evaluation and prevention of air, highway and marine transportation accidents, to include railway and pipeline systems, for the effective promotion of safety and prevent loss of life and property. Briefly, the mission of this Board is to engage in the investigation and determine probable cause(s) of transportation accidents, the issuance of safety recommendations and special studies directed at preventing recurrence of such accidents and evaluating the effectiveness of concerned government agencies in preventing transportation accidents.

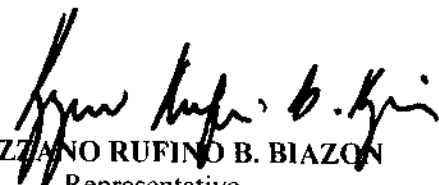
The creation of an independent government agency to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations has come of age in the Philippine transport system. As envisioned, the proper conduct of responsibilities assigned to this independent Board requires vigorous investigation of major accidents involving all types of public utility vehicles or vessels regulated by other agencies of government. It demands continual review, appraisal, and assessment of the operating practices and regulations of all such agencies. It also envisions calling for the making of

conclusions and recommendations that may be critical of or adverse to any such agency and its officials.

No government agency can properly perform such function unless it is totally separate and independent from any other department, bureau, commission, or agency. The current regulatory agencies involved in the transport industry cannot be expected to conduct a thorough and impartial investigation on any major accident for the simple reason that such agencies may be themselves liable due to the improper or lack of implementation of pertinent laws, rules and regulations regarding safety.

The importance and necessity of safe transportation system in our country cannot be over emphasized. The enactment of this measure is expected to ensure that all modes of transportation in the Philippines are conducted safely. We believe that the NTSB will be an effective vehicle for the realization of such a need.

Therefore, the passage of this bill is strongly recommended.


ROZZANO RUFINO B. BIAZON
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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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Introduced by Hon. Rozzano Rufino B. Biazon

AN ACT
CREATING A NATIONAL TRANSPORTATION SAFETY BOARD,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This act shall be known and cited as the “National Transportation Safety Act of 2004.”

SECTION 2. *Declaration of Policy.* – It is the policy of the State to prevent accidents and save lives and property in transportation; promote safety in the transportation of people, property and goods by conducting independent accident investigations; by continual and objective review, appraisal and assessment of operating practices and regulations of government agencies implementing transportation laws; and, by formulating and promulgating safety improvement standards for observance and implementation, by said agencies and concerned private sectors.

SECTION 3. *Creation.* There is hereby created a National Transportation Safety Board, non-regulatory and independent agency herein after referred to as the Board, to implement the foregoing policy of the State. For administrative purposes, the Board shall be attached to the office of the President.

SECTION 4. *Objectives.* – The Board shall have the following objectives:

- (a) To prevent future accidents, save lives and reduce injuries and property damages;
- (b) To ensure the survivors and families of the victims of transportation accidents receive timely, compassionate assistance from the operators, other government agencies, and community service organizations;
- (c) To ensure implementation of safety improvements that have been identified by the government agencies responsible for transportation safety;
- (d) To conduct thorough accident and incident investigations, determining the probable causes, and publishing accident reports and safety studies that will convince other to act; and
- (e) To provide safety information to the public, safety managers, and Board employees to help them make more timely and informed decisions.

SECTION 5. *Structure and Organization.* – The Board shall be composed of five (5) full-time members, including a Chairman and a Vice-Chairman. All the members of the Board shall have extensive training and experience in the respective field of our marine, highway and rail transportation systems, 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.

Members of the Board shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments, for a term of six (6) years. The member designated by the President, as Chairman shall be with the consent of the Commission on Appointments. Of those first appointed, two members shall hold office for six years, two members for four years, and the last member for two years. Appointment to any vacancy shall be only for the unexpired term of the predecessor. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified. In no case shall any Member be appointed or designated in a temporary or acting capacity. Any member of the Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office or any other legal cause.

No member of the Board shall hold concurrently any other government office or position, or be employed in any government-owned or controlled corporation or entity or any private, business enterprise whose interest may be conflict with the Board's function and duties.

The Chairman and Vice-Chairman of the Board each shall serve for a term of two (2) years. The Chairman shall be the chief executive officer of the Board and shall exercise the executive and administrative functions thereof with respect to the appointment and supervision of personnel employed by the Board; the distribution of business among any administrative units of the Board; and the use and expenditures of funds. The Vice-Chairman shall act as Chairman in the event of the absence or incapacity of the Chairmen or in case of a vacancy in any office of the Chairman. The Chairman of Acting Chairman shall be governed by the policies established by the Board, including any decisions, findings, determination, rules, regulations and formal resolutions.

Three (3) members of the Board shall constitute a quorum for the transaction of any function of the Board.

The Board shall establish and maintain distinct and appropriate staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation: (a) aviation; (b) highway and motor vehicle; and (c) railroad and tracked vehicles. The Board shall, in addition, establish and maintain any other such office as is needed, including an office as is needed, including an office to investigate and report on the safe transportation of hazardous materials.

SECTION 6. *Functions of the Executive Offices.* – For the proper management and effective implementation of the objectives of the Board, each executive office shall perform the following functions:

(a) *Office of the Managing Director.* – The Board shall have a Managing Director who shall be appointed by the President of the Philippines upon recommendation of the Board. The Managing Director shall have the following functions:

- (1) Assist the Chairman in the discharge of his functions as executive and administrative head of the Board;
- (2) Coordinate and direct the activities of the staff and is responsible for the day-to-day management of the affairs and activities of the Board;
- (3) Recommend and develop plans to achieve the Board's objectives; and
- (4) Provide executive secretarial services to the Board.

(b) *Office of Public Affairs.* – The Office of Public Affairs shall supply the public, the transportation industry and the news media with current, accurate information concerning the work, programs and objectives of the Board.

(c) *Office of Government Affairs.* – The Office of Government Affairs shall supply Congress and the different national agencies with information regarding the Safety Board's activities, programs and objectives.

(d) *Office of the General Counsel.* – The Office of the General Counsel shall have the following functions:

- (1) Provide legal advice and assistance to the Board and its staff components;
- (2) Prepare Board rules, opinions and/or orders, and advice to all offices and bureaus on matters of legal significance; and
- (3) Represent the Board in court actions to which the Board is a party or to which the Board is interested.

(e) *Office of Aviation Safety.* – The Office of Aviation Safety shall have the following functions:

- (1) Conduct investigations of all aviation accidents within the Board's jurisdiction;
- (2) Prepare reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s);
- (3) Determine the probable cause(s) of accidents when delegated authority to do so by the Board;
- (4) Initiate safety recommendations to prevent future aviation accidents; and
- (5) Conduct special investigations into selected aviation accidents involving safety issues of concern to the Board.

(f) *Office of Surface Transportation Safety.* – The functions of the Office of Surface Transportation Safety shall be the following:

- (1) Conduct investigations of highway, railroad, marine, pipeline and hazardous materials accident within the Board's jurisdiction;
- (2) Prepare reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s);
- (3) Determine the probable cause(s) of accidents when delegated authority to do so by the Board;
- (4) Initiate safety recommendations to prevent future surface transportation accidents; and
- (5) Conduct special investigations into selected surface accidents involving safety issues of concern to the Board.

(g) *Office of Safety Recommendations.* – The Office of Safety Recommendations shall oversee the Board's safety recommendations program.

(h) *Office of Research and Engineering.* – The Office of Research and Engineering shall have the following functions:

- (1) Provide technical advice and services;
- (2) Conduct research and carry out analytical studies and tests on all aspects of the Board's accident investigation, accident prevention and safety promotion activities;
- (3) Conduct safety studies of specific safety issues;

- (4) Perform statistical analyses of transportation accident and incident data;
- (5) Maintain archival records of the Board's accident investigation and safety promotion activities and support public access to these records; and
- (6) Support the Board's data processing, computing and information management requirements.

(i) *Office of Administration.* – The office of Administration is responsible for the custody and control of all Board records required to be preserved and kept. Moreover, it shall provide administrative support for the Board in the following areas:

- (1) budget;
- (2) accounting and audit;
- (3) personnel, training and payroll;
- (4) information management and automatic data processing;
- (5) property, space, communications, facilities and transportation management;
- (6) printing, publications, mail, procurement, contracting, and accident inquiry services.

SECTION 7. *Compensation.* – The salary of the Chairman and the members of the Board shall be the same as those of the Chairman and Members of the different Constitutional Commissioners. They shall also be entitled to computable representation and transportation allowances in the amount of Five Thousand Pesos (P 5,000.00) each per month. The salary of the Chairman and Members of the Board shall not be decreased during their tenure.

SECTION 8. *Personnel.* – Subject to the civil service laws, rules and regulations, the Board is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, and attorneys, as shall be necessary to carry out its powers and duties.

SECTION 9. *Duties and Powers of the Board.* – The primary function of the Board is to promote safety in transportation.

(A) *Duties of the Board.* – The Board shall:

(1) Investigate or cause to be investigated (in such details as it shall prescribe), and determine the facts, conditions, and circumstances and the cause or probable cause or causes of any:

- (a) aircraft accident within the scope of Subsection 11 of Section 32, Republic Act No. 776, as amended;
- (b) highway accident, including any railroad grade crossing accident that it selects;
- (c) railway accident in which there is a fatality, substantial property damage, or which involves a passenger train;
- (d) pipeline accidents in which there is a fatality or substantial property damage;
- (e) major marine casualties and marine accidents, except those involving only vessels used by the Armed Forces of the Philippines, occurring on

the navigable waters or territorial seas of the Philippines, or involving a vessel of the Philippines, in accordance with the regulations to be prescribed jointly by the Board and the Secretary of Transportation and Communication in which the Coast Guard is operating. Any marine accident involving a public vessel and any other vessel shall be investigated and the facts, conditions, and circumstances, and the cause or probable cause determined and made available to the public by either the Board or the Secretary of Transportation; and

- (f) other accident which occurs in connection with transportation of people or property, equipment or hazardous materials which, in the judgment of the Board, is catastrophic, involves problems of a recurring character, or would otherwise carry out the above-stated policy of the State.

Nothing therein shall prevent the Board from making further inquiries on accidents already investigated by existing accident-investigating bodies. Furthermore, the Board may require the submission of their records, reports, findings and recommendation of past investigation.

The Board shall be the primary government body to conduct accident investigations under its jurisdiction. Other agencies mandated to investigate concurrently such accidents shall coordinate with the Board in the performance of its functions. In addition, it shall give full support to the actions and policies dictated by the Board during the conduct of such investigations.

(2) Report in writing on the facts, conditions, and circumstances of each accident investigated pursuant to paragraph (1) of this subsection and cause such reports to be made available to the public at reasonable cause notice of the issuance and availability of such reports to be published in the Official Gazette;

(3) Issue periodic reports to Congress and government agencies concerned with transportation safety, and other interested persons recommending and advocating meaningful responses to reduce the likelihood of recurrence of transportation accidents similar to those investigated by the Board and proposing corrective steps to make the transportation of persons as safe and free from risk of injury as is possible, including steps to minimized human injuries from transportation activities.

(4) Make transportation safety recommendations to national agencies and private organizations to reduce the likelihood of recurrences of transportation accidents;

(5) Initiate and conduct special studies and special investigations on matters pertaining to safety in transportation and human injury avoidance.

(6) Assess and reassess techniques and methods of accident investigation and prepare and publish from time to time recommended procedures for accident investigations;

(7) Establish by regulation requirements binding on persons reporting accidents subjects to the Board's investigatory jurisdiction under this subsection;

(8) Evaluate, assess the effectiveness, and publish the findings of the Board with respect to the transportation safety consciousness and efficacy in preventing accidents of other government agencies, as well as promote transportation safety consciousness in both the national and local government;

(9) Evaluate the adequacy of safeguards and procedures concerning the transportation of hazardous materials and the performance of carriers and other government agencies charged with assuring the safe transportation of such materials;

(10) Gather, analyze and survey, and keep data and statistics and transportation accidents;

(11) Prepare and submit annual reports which shall include specific proposals for corrective legislation to the Department of Transportation and Communications, with copies

simultaneously furnished to the appropriate committees of the Senate and House of Representative;

(B) *Powers of the Board.* – (1) The Board, or upon authority of the Board, may member thereof, or any officer or employee duly designated by the Chairman, may conduct such hearings, sit and act as such times and places, administer such oaths and require by subpoena or subpoena *duces tecum* the attendance and testimony of such witnesses and the production of such evidence as the Board or such officer may deem necessary. Subpoenas shall be issued under the signature of the Chairman, or the Vice-Chairman, and may be served by and person designated by the Chairman.

(2) Any employee of the Board, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to enter any property wherein a transportation accident has occurred or wreckage any such accident is located and do all things therein necessary for the proper conduct of investigation. The employees may inspect, at reasonable times, records, files, processes, controls and facilities relevant to the investigations of such accident. Each inspection shall commence and be completed with reasonable promptness and the results of such inspection made available to the public.

(3) In case of contumacy or refusal to obey a subpoena, an order, or an inspection notice of the Board or any duly designated employee thereof, by any person who resides, is found, or transacts business within the jurisdiction of the Philippines, may be required to comply forthwith by a court of competent jurisdiction, upon the petition of the Board. Failure to obey such an order is punishable by such court as contempt of court.

(4) The Board is authorized to enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and the duties of the Board under this Section, with any government entity or any person.

(5) The Board is authorized to:

- (a) Use, on a reimbursable basis or otherwise, when appropriate, available services, equipment, personnel and facilities of the Department of Transportation and Communication, the Department of National Defense, the Department of Public Works and Highways and other agencies and instrumentalities of the government in the conduct of its investigation.
- (b) Employ recognized experts and consultants on the accidents under investigation who shall be paid by compensation fixed by the Board: *Provided*, That not more than two consultants shall be appointed for each incident being investigated.
- (c) Create advisory committees composed of qualified private citizens and government officials as it deems necessary or appropriate;
- (d) Accept voluntary and uncompensated services notwithstanding any other provision of law;
- (e) Accept gifts or donations of money or property, including real, personal, mixed, tangible or intangible; and
- (f) Enter into contracts with public or private non-profit entities for the conduct of studies related to any of its functions.

(6) Whenever the Board submits or transmits any budget estimates, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for Congressional hearings, or comment on legislation to the President or the Department of Budget and Management, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the Philippine government shall have any authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the

National Government for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(7) The Board is empowered to designate representatives to serve or assist on such committees as the Chairman determines to be necessary or appropriate to maintain effective liaison with executive departments, other government agencies, and with independent standard-setting bodies carrying out programs and activities related to transportation safety.

(8) The Board, or any employee of the Board duly designated by the Chairman, may conduct an inquiry to secure data with respect to any matter pertinent to transportation safety, upon publication of notice of such inquiry in the official Gazette; and may require, by special or general orders, government agencies and persons engaged in the transportation of people or property in commerce to submit written reports and answers to such requests questions as are propounded with respect to any matter pertinent to any function of the Board. Such reports and answers shall be submitted to the Board or top such employee within such reasonable period of time and in such as the Board may determine. Copies thereof shall be made available for inspection by the public.

(9) The Board may delegate any of its power and functions to the heads of the different offices enumerated in Section 6 hereof, to further facilitate the implementation of the provisions of this Act.

(10) Establish such rules and regulations as may be necessary to the exercise of its powers and functions under this Act.

SECTION 10. *Recommendations of the Board.* – The Board shall recommend to the Department of Transportation the recall of defective conveyance and to cause the installation of the required part or parts to make it safe, and notify not only the distributor or purchasers but also the public of such defect. Likewise, it shall recommend the grounding of any defective conveyance pending the investigation of the cause or nature of its defect.

Wherever the Board submits a recommendation regarding transportation safety to the secretary of transportation, he shall respond to each such recommendation formally and in writing not later than thirty (30) days after receipt thereof. The response to the Board by the Secretary shall indicate his intention to –

- (1) initiate and conduct procedures for adopting such recommendation in full, pursuant to a proposed timetable, a copy of which shall be included;
- (2) initiate and conduct procedures for adopting such recommendation in part, pursuant to a proposed timetable, a copy of which shall be included. Such response shall set forth in detail the reasons for the refusal to proceed as to the remainder of such recommendation;
- (3) refuse to initiate or conduct procedures for adopting such recommendation. Such response shall set forth in detail the reasons for such refusal.

SECTION 11. *Use of Reports in Actions and Damages.* – No part of any report of the Board, relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports. Furthermore, the Board shall have immunity from suits arising from its investigation, pronouncements, and findings.

SECTION 12. *Seal.* – The Board shall have a seal, which shall be officially recognized.

SECTION 13. *Annual Report.* – The Board shall report to Congress on the second week of August of each year. Such report shall include, but shall not be limited to –

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

- (2) a survey and summary, in such detail as the Board deems advisable, of the recommendations made by the Board to reduce the likelihood of recurrence of such accidents together with the observed response to each recommendation;
- (3) an appraisal in detail of the accident investigation and accident prevention activities of other government agencies charged by law with responsibility in this field; and
- (4) a biennial appraisal and evaluation and review, and recommendations for legislative and administrative action and change with respect to transportation safety.

SECTION 14. *Fiscal Autonomy.* – The Board shall enjoy fiscal autonomy. Their approved annual appropriations shall be automatically and regularly released.

SECTION 15. *Appropriations.* – The Board shall receive an appropriation in the amount of Thirty Million Pesos (P 30,000,000.00) to finance its operation for the first year to be appropriated out of the funds of the National Treasury not otherwise appropriated out of the funds of the National Treasury not otherwise appropriated and thereafter such amounts as may be sufficient to finance its operations and activities shall be incorporated in the annual General Appropriations Act.

SECTION 16. *Separability Clause.* – Any portion or provision of this Act which may be declared unconstitutional shall not have the effect of nullifying other portions or provisions hereof, as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SECTION 17. *Repealing Clause.* – All laws, decrees, orders, proclamation, rules and regulations, or parts thereof, which are inconsistent with any of this Act are hereby repealed, amended, or modified accordingly.

SECTION 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.