

103^D CONGRESS
1ST SESSION

H. R. 2838

To establish a Commission on the Airplane Crash at Gander, Newfoundland.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1993

Mr. EVERETT (for himself, Mr. BATEMAN, Mr. ENGEL, Mr. GORDON, Mr. HUTTO, Mr. KLINK, Mr. KOPETSKI, Mr. MCCOLLUM, Mr. McNULTY, Mr. MAZZOLI, Mr. MURPHY, Mr. OBEY, Mr. PALLONE, Mr. SLATTERY, Mr. SMITH of Oregon, and Mr. WHEAT) introduced the following bill; which was referred jointly to the Committees on Public Works and Transportation and Foreign Affairs

A BILL

To establish a Commission on the Airplane Crash at Gander, Newfoundland.

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 “Commission on the
5 Airplane Crash at Gander, Newfoundland, Act”.

6 **SEC. 2. ESTABLISHMENT.**

7 There is established in the legislative branch of the
8 Federal Government a commission to be known as the

1 Commission on the Airplane Crash at Gander, Newfound-
2 land.

3 **SEC. 3. DUTIES.**

4 (a) IN GENERAL.—The Commission shall conduct a
5 full and complete investigation into, and study of, the cir-
6 cumstances surrounding the crash of an Arrow Airlines
7 airplane near Gander, Newfoundland, Canada, on Decem-
8 ber 12, 1985.

9 (b) SPECIFIC ISSUES.—In fulfilling the duty de-
10 scribed in subsection (a), the Commission shall address—

11 (1) the mechanical condition and soundness of
12 the aircraft during the course of its flight and crash;

13 (2) the weather conditions encountered by the
14 aircraft during the course of its flight and crash;

15 (3) the scope and adequacy of the investigation
16 conducted, and the conclusions reached, by the Ca-
17 nadian Aviation Safety Board regarding the crash of
18 the aircraft;

19 (4) the role of each Federal agency that was or
20 should have been involved in the flight or in an in-
21 vestigation of the crash of the aircraft;

22 (5) the connection, if any, between the crash of
23 the aircraft and terrorism against the Federal Gov-
24 ernment or people from the United States; and

1 (6) the connection, if any, between the crash of
2 the aircraft and any matter authorized to be inves-
3 tigated by the Select Committee to Investigate Cov-
4 ert Arms Transactions with Iran, which was estab-
5 lished in the House of Representatives on January
6 7, 1987.

7 **SEC. 4. MEMBERSHIP.**

8 (a) NUMBER AND APPOINTMENT.—The Commission
9 shall be composed of 13 members appointed not later than
10 180 days after the date of the enactment of this Act. The
11 Commission shall consist of the following members:

12 (1) 3 individuals appointed by the Speaker of
13 the House of Representatives.

14 (2) 3 individuals appointed by the minority
15 leader of the House of Representatives.

16 (3) 3 individuals appointed by the majority
17 leader of the Senate.

18 (4) 3 individuals appointed by the minority
19 leader of the Senate.

20 (5) 1 individual appointed jointly by the Speak-
21 er and the minority leader of the House of Rep-
22 resentatives and the majority and minority leaders
23 of the Senate from among individuals who are offi-
24 cers, directors, employees, or members of the fami-
25 lies of the victims.

1 (b) TERMS.—Each member shall be appointed for the
2 life of the Commission.

3 (c) VACANCIES.—A vacancy in the Commission shall
4 be filled not later than 60 days after the date of the cre-
5 ation of the vacancy in the manner in which the original
6 appointment was made.

7 (d) COMPENSATION.—

8 (1) RATES OF PAY.—Except as provided in
9 paragraph (2), members of the Commission shall
10 serve without pay.

11 (2) TRAVEL EXPENSES.—Each member of the
12 Commission shall receive travel expenses, including
13 per diem in lieu of subsistence, in accordance with
14 sections 5702 and 5703 of title 5, United States
15 Code.

16 (e) QUORUM.—Seven members of the Commission
17 shall constitute a quorum, but a lesser number may hold
18 hearings, take testimony, or receive evidence.

19 (f) CHAIRPERSON AND VICE CHAIRPERSON.—The
20 chairperson and vice chairperson of the Commission shall
21 be elected by a majority vote of the members of the
22 Commission.

23 (g) MEETINGS.—The Commission shall meet at the
24 call of the chairperson of the Commission or a majority
25 of its members.

1 **SEC. 5. STAFF AND SUPPORT SERVICES.**

2 (a) DIRECTOR.—The Commission shall have a direc-
3 tor appointed by the Commission and paid at a rate not
4 to exceed the minimum rate of basic pay payable for GS-
5 15 of the General Schedule.

6 (b) STAFF.—The Commission may appoint and fix
7 the pay of additional personnel as it considers appropriate,
8 except that an individual so appointed may not receive pay
9 in excess of the minimum rate of basic pay payable for
10 GS-12 of the General Schedule.

11 (c) EXPERTS AND CONSULTANTS.—The Commission
12 may procure by contract the temporary or intermittent
13 services of experts or consultants, including stenographic
14 reporting services, at rates for individuals not to exceed
15 the daily equivalent of the minimum annual rate of basic
16 pay payable for GS-15 of the General Schedule.

17 (d) ADMINISTRATIVE SUPPORT SERVICES.—Upon
18 the request of the Commission, the Administrator of Gen-
19 eral Services shall provide to the Commission, on a reim-
20 bursable basis, the administrative support services nec-
21 essary for the Commission to carry out its responsibilities
22 under this Act.

23 **SEC. 6. POWERS.**

24 (a) HEARINGS AND SESSIONS.—The Commission
25 may, for the purpose of carrying out this Act, hold hear-
26 ings, sit and act at times and places, take testimony, and

1 receive evidence as the Commission considers appropriate,
2 within the United States or in any other country. The
3 Commission may administer oaths or affirmations to wit-
4 nesses appearing before it.

5 (b) DELEGATION OF AUTHORITY.—Any member or
6 agent of the Commission may, if authorized by the Com-
7 mission, take any action that the Commission is author-
8 ized to take by this section.

9 (c) INFORMATION.—

10 (1) IN GENERAL.—Notwithstanding sections
11 552 and 552b of title 5, United States Code, the
12 Commission may secure directly from any Federal
13 agency information necessary to enable it to carry
14 out this Act. Upon request of the chairperson of the
15 Commission, the head of the Federal agency shall
16 furnish the information to the Commission.

17 (2) PROHIBITION OF DISCLOSURE.—The Com-
18 mission shall not disclose information secured under
19 paragraph (1) that is protected from disclosure by
20 Federal law or that is classified for national security
21 purposes.

22 (d) MAILS.—The Commission may use the United
23 States mails in the same manner and under the same con-
24 ditions as other Federal agencies.

25 (e) SUBPOENA POWER.—

1 (1) IN GENERAL.—The Commission may issue
2 subpoenas requiring the attendance and testimony of
3 witnesses and the production of evidence relating to
4 any matter that the Commission is empowered to in-
5 vestigate by section 3. The attendance of witnesses
6 and the production of evidence may be required from
7 any place within the United States at any des-
8 ignated place of hearing within the United States.

9 (2) SERVICE OF SUBPOENAS.—A subpoena of
10 the Commission may be served by any person des-
11 ignated by the Commission or the chairperson of the
12 Commission.

13 (3) FAILURE TO OBEY SUBPOENA.—If a person
14 refuses to obey a subpoena issues under paragraph
15 (1), the Commission may apply to a United States
16 district court for an order requiring the person to
17 appear before the Commission to give testimony,
18 produce evidence, or both, relating to the matter
19 under investigation. The application may be made
20 within the judicial district where the hearing is con-
21 ducted or where the person is found, resides, or
22 transacts business. Any failure to obey the order of
23 the court may be punished by the court as civil
24 contempt.

1 (4) SERVICE OF PROCESS.—All process of any
2 court to which application is made under paragraph
3 (3) may be served in the judicial district in which
4 the person required to be served resides or may be
5 found.

6 (f) EVIDENCE IN FOREIGN COUNTRIES.—

7 (1) IN GENERAL.—The Commission may obtain
8 evidence located in a foreign country with the co-
9 operation of the government of the country or, if the
10 laws of the country allow, by letters rogatory, com-
11 missions, field depositions, and other appropriate
12 mechanisms.

13 (2) REQUESTS FOR ASSISTANCE.—For the pur-
14 pose of obtaining evidence located in a foreign coun-
15 try, the Commission may make application to a
16 court of competent jurisdiction for issuance of letters
17 rogatory and may request other appropriate assist-
18 ance from any agency of the legislative, executive, or
19 judicial branches of the Federal Government. The
20 Commission may request the Secretary of State to
21 transmit a letter rogatory or other request to a for-
22 eign tribunal, officer, or agency.

23 (g) CONTRACT AUTHORITY.—The Commission may
24 contract with and compensate government and private

1 agencies or persons for supplies or services without regard
2 to section 3709 of the Revised Statutes (41 U.S.C. 5).

3 **SEC. 7. REPORT.**

4 (a) IN GENERAL.—Not later than the expiration of
5 the 18-month period beginning on the date of the appoint-
6 ment of the last member of the Commission to be ap-
7 pointed under section 4(a), the Commission shall submit
8 to the President and the Congress a report. The report
9 shall include—

10 (1) a detailed chronology of the relevant events
11 that took place before, during, and after the crash
12 of the aircraft, including the sequential development
13 of the investigation conducted by the Canadian Avia-
14 tion Safety Board;

15 (2) the findings and conclusions of the Commis-
16 sion; and

17 (3) specific recommendations for legislative, ex-
18 ecutive, or judicial actions that the Commission de-
19 termines to be appropriate.

20 (b) SPECIFIC FINDINGS AND CONCLUSIONS.—The
21 report required by subsection (a) shall include the findings
22 and conclusions of the Commission concerning—

23 (1) the cause or causes of the crash of the
24 aircraft;

1 (2) the person or persons responsible for the
2 crash, if any;

3 (3) the adequacy of the investigation conducted
4 by the Canadian Aviation Safety Board; and

5 (4) the adequacy of any assistance provided to
6 the Canadian Aviation Safety Board by any Federal
7 agency.

8 **SEC. 8. TERMINATION.**

9 The Commission shall terminate not later than the
10 expiration of the 60-day period beginning on the date on
11 which the Commission submits its report under section 7.

12 **SEC. 9. DEFINITIONS.**

13 For purposes of this Act:

14 (1) The term “Commission” means the Com-
15 mission on the Airplane Crash at Gander, New-
16 foundland, established by section 2.

17 (2) The term “aircraft” means the Arrow Air-
18 lines airplane that crashed near Gander, Newfound-
19 land, Canada, on December 12, 1985.

20 **SEC. 10. BUDGET COMPLIANCE.**

21 Any spending authority (as defined in subparagraphs
22 (A) and (C) of section 401(c)(2) of the Congressional
23 Budget Act of 1974 (2 U.S.C. 651(c)(2)(A))) authorized
24 by this Act shall be effective only to such extent or in such
25 amounts as are provided in appropriation Acts.

