

108TH CONGRESS
1ST SESSION

H. R. 2450

To provide for the establishment of an independent, Presidentially-appointed investigative Commission in the event of incidents in the Nation's human space flight program that result in loss of crew, passengers, or the spacecraft, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2003

Mr. GORDON (for himself, Mr. SENSENBRENNER, Ms. JACKSON-LEE of Texas, Mr. UDALL of Colorado, Mr. COOPER, Mr. FRANK of Massachusetts, Mr. LAMPSON, Mr. HALL, Mr. SHERMAN, Mr. LARSON of Connecticut, Mr. WEINER, Ms. LOFGREN, Mr. HONDA, Mr. FROST, Mr. COSTELLO, Mr. DAVIS of Tennessee, Mr. WYNN, Mr. BAIRD, and Ms. EDDIE BERNICE JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Science

A BILL

To provide for the establishment of an independent, Presidentially-appointed investigative Commission in the event of incidents in the Nation's human space flight program that result in loss of crew, passengers, or the spacecraft, and for other purposes.

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 "Human Space Flight
5 Independent Investigation Commission Act of 2003".

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act—

3 (1) the term “incident” means either an acci-
4 dent or a deliberate act;

5 (2) the term “NASA” means the National Aer-
6 onautics and Space Administration;

7 (3) the term “NASA Administrator” means the
8 Administrator of NASA; and

9 (4) the term “NTSB” means the National
10 Transportation Safety Board.

11 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

12 (a) ESTABLISHMENT.—The President shall establish
13 an independent, nonpartisan Commission within the exec-
14 utive branch to investigate any incident that results in the
15 loss of—

16 (1) a Space Shuttle;

17 (2) the International Space Station or its oper-
18 ational viability;

19 (3) any other United States space vehicle car-
20 rying humans;

21 (4) any space vehicle carrying United States
22 citizens; or

23 (5) a crew member or passenger of any space
24 vehicle described in this subsection.

25 (b) DEADLINE FOR ESTABLISHMENT.—The Presi-
26 dent shall issue an executive order establishing a Commis-

1 sion within 7 days after an incident specified in subsection
2 (a).

3 **SEC. 4. COMPOSITION OF COMMISSION.**

4 (a) NUMBER OF COMMISSIONERS.—A Commission
5 established pursuant to this Act shall consist of 15 mem-
6 bers.

7 (b) SELECTION.—The members of a Commission es-
8 tablished pursuant to this Act shall be chosen in the fol-
9 lowing manner:

10 (1) The Chairman of the NTSB shall be a
11 member of the Commission.

12 (2) The President shall appoint the remaining
13 14 members, and shall designate the Chairman and
14 Vice Chairman of the Commission from among its
15 members.

16 (3) Four of the 14 members appointed by the
17 President shall be selected by the President in the
18 following manner:

19 (A) The Majority Leader of the Senate,
20 the Minority Leader of the Senate, the Speaker
21 of the House of Representatives, and the Mi-
22 nority Leader of the House of Representatives
23 shall each provide to the President a list of can-
24 didates for membership on the Commission.

1 (B) The President shall select one of the
2 candidates from each of the 4 lists for member-
3 ship on the Commission.

4 (4) With the exception of the Chairman of the
5 NTSB, no officer or employee of the Federal Gov-
6 ernment shall serve as a member of the Commission.

7 (5) No member of the Commission shall have,
8 or have pending, a contractual relationship with
9 NASA. The President shall not appoint any indi-
10 vidual as a member of a Commission under this sec-
11 tion who has a current or former relationship with
12 the NASA Administrator that the President deter-
13 mines would constitute a conflict of interest.

14 (6) To the extent practicable, the President
15 shall ensure that the members of the Commission in-
16 clude some individuals with experience relative to the
17 human carrying spacecraft being investigated, as
18 well as some individuals with investigative experience
19 and some individuals with legal experience.

20 (7) To the extent practicable, the President
21 shall seek diversity in the membership of the Com-
22 mission.

23 (c) DEADLINE FOR APPOINTMENT.—All members of
24 the Commission shall be appointed no later than 30 days
25 after the incident.

1 (d) INITIAL MEETING.—The Commission shall meet
2 and begin operations as soon as practicable.

3 (e) QUORUM; VACANCIES.—After its initial meeting,
4 the Commission shall meet upon the call of the Chairman
5 or a majority of its members. Eight members of the Com-
6 mission shall constitute a quorum. Any vacancy in the
7 Commission shall not affect its powers, but shall be filled
8 in the same manner in which the original appointment was
9 made.

10 **SEC. 5. TASKS OF THE COMMISSION.**

11 A Commission established pursuant to this Act shall,
12 to the extent possible, undertake the following tasks:

- 13 (1) Investigate the incident.
- 14 (2) Determine the cause of the incident.
- 15 (3) Identify all contributing factors to the cause
16 of the incident.
- 17 (4) Make recommendations for corrective ac-
18 tions.
- 19 (5) Provide any additional findings or rec-
20 ommendations deemed by the Commission to be im-
21 portant, whether or not they are related to the spe-
22 cific incident under investigation.
- 23 (6) Prepare a report to Congress, the Presi-
24 dent, and the public.

1 **SEC. 6. POWERS OF COMMISSION.**

2 (a) IN GENERAL.—

3 (1) HEARINGS AND EVIDENCE.—A Commission
4 established pursuant to this Act or, on the authority
5 of the Commission, any subcommittee or member
6 thereof, may, for the purpose of carrying out this
7 Act—

8 (A) hold such hearings and sit and act at
9 such times and places, take such testimony, re-
10 ceive such evidence, administer such oaths; and

11 (B) subject to paragraph (2)(A), require,
12 by subpoena or otherwise, the attendance and
13 testimony of such witnesses and the production
14 of such books, records, correspondence, memo-
15 randa, papers, and documents,
16 as the Commission or such designated subcommittee
17 or designated member may determine advisable.

18 (2) SUBPOENAS.—

19 (A) ISSUANCE.—

20 (i) IN GENERAL.—A subpoena may be
21 issued under this subsection only—

22 (I) by the agreement of the
23 Chairman and the Vice Chairman; or

24 (II) by the affirmative vote of 8
25 members of the Commission.

1 (ii) SIGNATURE.—Subject to clause
2 (i), subpoenas issued under this subsection
3 may be issued under the signature of the
4 Chairman or any member designated by a
5 majority of the Commission, and may be
6 served by any person designated by the
7 Chairman or by a member designated by a
8 majority of the Commission.

9 (B) ENFORCEMENT.—

10 (i) IN GENERAL.—In the case of con-
11 tumacy or failure to obey a subpoena
12 issued under subsection (a), the United
13 States district court for the judicial district
14 in which the subpoenaed person resides, is
15 served, or may be found, or where the sub-
16 poena is returnable, may issue an order re-
17 quiring such person to appear at any des-
18 ignated place to testify or to produce docu-
19 mentary or other evidence. Any failure to
20 obey the order of the court may be pun-
21 ished by the court as a contempt of that
22 court.

23 (ii) ADDITIONAL ENFORCEMENT.—In
24 the case of any failure of any witness to
25 comply with any subpoena or to testify

1 when summoned under authority of this
2 section, the Commission may, by majority
3 vote, certify a statement of fact consti-
4 tuting such failure to the appropriate
5 United States attorney, who may bring the
6 matter before the grand jury for its action,
7 under the same statutory authority and
8 procedures as if the United States attorney
9 had received a certification under sections
10 102 through 104 of the Revised Statutes
11 of the United States (2 U.S.C. 192
12 through 194).

13 (b) CONTRACTING.—A Commission established pur-
14 suant to this Act may, to such extent and in such amounts
15 as are provided in appropriation Acts, enter into contracts
16 to enable the Commission to discharge its duties under
17 this Act.

18 (c) INFORMATION FROM FEDERAL AGENCIES.—

19 (1) IN GENERAL.—A Commission established
20 pursuant to this Act is authorized to secure directly
21 from any executive department, bureau, agency,
22 board, commission, office, independent establish-
23 ment, or instrumentality of the Government, infor-
24 mation, suggestions, estimates, and statistics for the
25 purposes of this Act. Each department, bureau,

1 agency, board, commission, office, independent es-
2 tablishment, or instrumentality shall, to the extent
3 authorized by law, furnish such information, sugges-
4 tions, estimates, and statistics directly to the Com-
5 mission, upon request made by the Chairman, the
6 chairman of any subcommittee created by a majority
7 of the Commission, or any member designated by a
8 majority of the Commission.

9 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
10 SEMINATION.—Information shall only be received,
11 handled, stored, and disseminated by members of
12 the Commission and its staff consistent with all ap-
13 plicable statutes, regulations, and Executive orders.

14 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

15 (1) GENERAL SERVICES ADMINISTRATION.—
16 The Administrator of General Services shall provide
17 to a Commission established pursuant to this Act on
18 a reimbursable basis administrative support and
19 other services for the performance of the Commis-
20 sion's tasks.

21 (2) OTHER DEPARTMENTS AND AGENCIES.—In
22 addition to the assistance prescribed in paragraph
23 (1), departments and agencies of the United States
24 may provide to the Commission such services, funds,
25 facilities, staff, and other support services as they

1 may determine advisable and as may be authorized
2 by law.

3 (e) **POSTAL SERVICES.**—A Commission established
4 pursuant to this Act may use the United States mails in
5 the same manner and under the same conditions as de-
6 partments and agencies of the United States.

7 **SEC. 7. PUBLIC MEETINGS, INFORMATION, AND HEARINGS.**

8 (a) **PUBLIC MEETINGS AND RELEASE OF PUBLIC**
9 **VERSIONS OF REPORTS.**—A Commission established pur-
10 suant to this Act shall—

11 (1) hold public hearings and meetings to the ex-
12 tent appropriate; and

13 (2) release public versions of the reports re-
14 quired under this Act.

15 (b) **PUBLIC HEARINGS.**—Any public hearings of a
16 Commission shall be conducted in a manner consistent
17 with the protection of information provided to or developed
18 for or by the Commission as required by any applicable
19 statute, regulation, or Executive order.

20 **SEC. 8. STAFF OF COMMISSION.**

21 (a) **IN GENERAL.**—

22 (1) **APPOINTMENT AND COMPENSATION.**—The
23 Chairman, in consultation with Vice Chairman, in
24 accordance with rules agreed upon by a Commission
25 established pursuant to this Act, may appoint and

1 fix the compensation of a staff director and such
2 other personnel as may be necessary to enable the
3 Commission to carry out its functions, without re-
4 gard to the provisions of title 5, United States Code,
5 governing appointments in the competitive service,
6 and without regard to the provisions of chapter 51
7 and subchapter III of chapter 53 of such title relat-
8 ing to classification and General Schedule pay rates,
9 except that no rate of pay fixed under this sub-
10 section may exceed the equivalent of that payable for
11 a position at level V of the Executive Schedule under
12 section 5316 of title 5, United States Code. Employ-
13 ees of NASA shall not be appointed to the staff of
14 a Commission.

15 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

16 (A) IN GENERAL.—The executive director
17 and any personnel of a Commission established
18 pursuant to this Act who are employees shall be
19 employees under section 2105 of title 5, United
20 States Code, for purposes of chapters 63, 81,
21 83, 84, 85, 87, 89, and 90 of that title.

22 (B) MEMBERS OF COMMISSION.—Subpara-
23 graph (A) shall not be construed to apply to
24 members of a Commission established pursuant
25 to this Act.

1 (b) DETAILEES.—Any Federal Government em-
2 ployee, except for an employee of NASA, may be detailed
3 to a Commission established pursuant to this Act without
4 reimbursement from the Commission, and such detailee
5 shall retain the rights, status, and privileges of his or her
6 regular employment without interruption.

7 (c) CONSULTANT SERVICES.—A Commission estab-
8 lished pursuant to this Act is authorized to procure the
9 services of experts and consultants in accordance with sec-
10 tion 3109 of title 5, United States Code, but at rates not
11 to exceed the daily rate paid a person occupying a position
12 at level IV of the Executive Schedule under section 5315
13 of title 5, United States Code. Any consultant or expert
14 whose services are procured under this subsection shall
15 disclose any contract or association it has with NASA or
16 any NASA contractor.

17 **SEC. 9. COMPENSATION AND TRAVEL EXPENSES.**

18 (a) COMPENSATION.—Each member of a Commission
19 established pursuant to this Act may be compensated at
20 not to exceed the daily equivalent of the annual rate of
21 basic pay in effect for a position at level IV of the Execu-
22 tive Schedule under section 5315 of title 5, United States
23 Code, for each day during which that member is engaged
24 in the actual performance of the duties of the Commission.

1 (b) TRAVEL EXPENSES.—While away from their
2 homes or regular places of business in the performance
3 of services for the Commission, members of the Commis-
4 sion shall be allowed travel expenses, including per diem
5 in lieu of subsistence, in the same manner as persons em-
6 ployed intermittently in the Government service are al-
7 lowed expenses under section 5703(b) of title 5, United
8 States Code.

9 **SEC. 10. SECURITY CLEARANCES FOR COMMISSION MEM-**
10 **BERS AND STAFF.**

11 The appropriate Federal agencies or departments
12 shall cooperate with a Commission established pursuant
13 to this Act in expeditiously providing to the Commission
14 members and staff appropriate security clearances to the
15 extent possible pursuant to existing procedures and re-
16 quirements. No person shall be provided with access to
17 classified information under this Act without the appro-
18 priate security clearances.

19 **SEC. 11. REPORTING REQUIREMENTS AND TERMINATION.**

20 (a) INTERIM REPORTS.—A Commission established
21 pursuant to this Act may submit to the President and
22 Congress interim reports containing such findings, conclu-
23 sions, and recommendations for corrective actions as have
24 been agreed to by a majority of Commission members.

1 (b) FINAL REPORT.—A Commission established pur-
2 suant to this Act shall submit to the President and Con-
3 gress, and make concurrently available to the public, a
4 final report containing such findings, conclusions, and rec-
5 ommendations for corrective actions as have been agreed
6 to by a majority of Commission members. Such report
7 shall include any minority views or opinions not reflected
8 in the majority report.

9 (c) TERMINATION.—

10 (1) IN GENERAL.—A Commission established
11 pursuant to this Act, and all the authorities of this
12 Act with respect to that Commission, shall terminate
13 60 days after the date on which the final report is
14 submitted under subsection (b).

15 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
16 MINATION.—A Commission may use the 60-day pe-
17 riod referred to in paragraph (1) for the purpose of
18 concluding its activities, including providing testi-
19 mony to committees of Congress concerning its re-
20 ports and disseminating the final report.

21 **SEC. 12. ROLE OF NTSB.**

22 The NTSB shall assume responsibility for the inves-
23 tigation of any incident described in section 3(a) imme-
24 diately upon the occurrence of that incident. The NTSB
25 shall transfer responsibility for the investigation to a Com-

1 mission established pursuant to this Act as soon as the
2 Commission holds its initial meeting under section 4(d).

3 **SEC. 13. FUNDING.**

4 Such sums as are necessary to carry out this Act are
5 authorized to be appropriated. Sums authorized by this
6 Act shall remain available until the termination of the
7 Commission for which they are appropriated.

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