

103D CONGRESS
1ST SESSION

S. 24

AN ACT

To reauthorize the independent counsel law for an additional 5 years, and for other purposes.

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To reauthorize the independent counsel law for an additional
5 years, 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 “Independent Counsel
5 Reauthorization Act of 1993”.

1 **SEC. 2. FIVE-YEAR REAUTHORIZATION.**

2 Section 599 of title 28, United States Code, is
3 amended by striking “1987” and inserting “1993”.

4 **SEC. 3. ADDED CONTROLS.**

5 (a) COST CONTROLS AND ADMINISTRATIVE SUP-
6 PORT.—Section 594 of title 28, United States Code, is
7 amended by adding at the end the following new sub-
8 section:

9 “(l) COST CONTROLS AND ADMINISTRATIVE SUP-
10 PORT.—

11 “(1) COST CONTROLS.—

12 “(A) IN GENERAL.—An independent coun-
13 sel shall—

14 “(i) conduct all activities with due re-
15 gard for expense;

16 “(ii) authorize only reasonable and
17 lawful expenditures; and

18 “(iii) promptly, upon taking office, as-
19 sign to a specific employee the duty of cer-
20 tifying that expenditures of the independ-
21 ent counsel are reasonable and made in ac-
22 cordance with law.

23 “(B) DEPARTMENT OF JUSTICE POLI-
24 CIES.—An independent counsel shall comply
25 with the established policies of the Department
26 of Justice respecting expenditures of funds, ex-

1 cept to the extent that compliance would be in-
2 consistent with the purposes of this chapter.

3 “(2) ADMINISTRATIVE SUPPORT.—The Admin-
4 istrative Office of the United States Courts shall
5 provide administrative support and guidance to each
6 independent counsel. The Administrative Office shall
7 not disclose information related to an independent
8 counsel’s expenditures, personnel, or administrative
9 acts or arrangements without the authorization of
10 the independent counsel, which shall not be withheld
11 unless the Independent Counsel determines that
12 such information would interfere with a pending in-
13 vestigation or prosecution.

14 “(3) OFFICE SPACE.—The General Services Ad-
15 ministration, in consultation with the Administrative
16 Office, shall promptly provide appropriate office
17 space for each independent counsel. Such office
18 space shall be within a Federal building unless the
19 General Services Administration determines that
20 other arrangements would cost less. Until such office
21 space is provided, the Administrative Office of the
22 United States Courts shall provide newly appointed
23 independent counsels immediately upon appointment
24 with appropriate, temporary office space, equipment,
25 and supplies.”.

1 (b) INDEPENDENT COUNSEL PER DIEM EX-
2 PENSES.— Section 594(b) of title 28, United States Code,
3 is amended—

4 (1) by striking “(b) COMPENSATION.—An” and
5 inserting the following:

6 “(b) COMPENSATION.—

7 “(1) IN GENERAL.—An”; and

8 (2) by adding at the end the following new
9 paragraphs:

10 “(2) TRAVEL EXPENSES.—Except as provided
11 in paragraph (3), an independent counsel and per-
12 sons appointed under subsection (c) shall be entitled
13 to the payment of travel expenses as provided by
14 subchapter 1 of chapter 57 of title 5, United States
15 Code, including travel expenses and per diem in lieu
16 of subsistence in accordance with section 5703 of
17 title 5.

18 “(3) TRAVEL TO PRIMARY OFFICE.—An inde-
19 pendent counsel and persons appointed under sub-
20 section (c) shall not be entitled to the payment of
21 travel and subsistence expenses under subchapter 1
22 of chapter 57 of title 5, United States Code, with re-
23 spect to duties performed in the city in which the
24 primary office of that independent counsel or person
25 is located after 1 year of service under this chapter.

1 The one year period may be extended by 3 months
2 if the employee assigned duties under subsection
3 (e)(1)(A)(iii) certifies that the investigation will like-
4 ly be concluded within that time period.”.

5 (c) INDEPENDENT COUNSEL EMPLOYEE PAY COM-
6 PARABILITY.—Section 594(c) of title 28, United States
7 Code, is amended by striking the last sentence and insert-
8 ing: “Such employees shall be compensated at levels not
9 to exceed those payable for comparable positions in the
10 Office of United States Attorney for the District of Colum-
11 bia under sections 548 and 550, but in no event shall any
12 such employee be compensated at a rate greater than the
13 rate of basic pay payable for level IV of the Executive
14 Schedule under section 5315 of title 5.”.

15 (d) ETHICS ENFORCEMENT.—Section 594(j) of title
16 28, United States Code, is amended by adding at the end
17 the following new paragraph:

18 “(5) ENFORCEMENT.—The Department of Jus-
19 tice and Office of Government Ethics have authority
20 to enforce compliance with this subsection.”.

21 (e) COMPLIANCE WITH POLICIES OF THE DEPART-
22 MENT OF JUSTICE.—Section 594(f) of title 28, United
23 States Code, is amended by—

24 (1) striking “shall, except where not possible,
25 comply” and inserting “shall, except to the extent

1 that to do so would be inconsistent with the pur-
2 poses of this chapter, comply”;

3 (2) adding at the end thereof the following: “To
4 determine these policies and policies under sub-
5 section (l)(1)(B), the independent counsel shall, to
6 the extent possible throughout his or her term of of-
7 fice, consult with the Department of Justice.”;

8 (3) striking “An independent” and inserting the
9 following:

10 “(1) IN GENERAL.—An independent”; and

11 (4) adding at the end thereof the following new
12 paragraph:

13 “(2) NATIONAL SECURITY MATTERS.—An inde-
14 pendent counsel shall consult with the Department
15 of Justice with respect to national security matters
16 and shall comply with guidelines and procedures uti-
17 lized by the Department for the handling and use of
18 classified material.”.

19 (f) PUBLICATION OF REPORTS.—Section 594(h) of
20 title 28, United States Code, is amended by adding at the
21 end the following new paragraph:

22 “(3) PUBLICATION OF REPORTS.—At the re-
23 quest of an independent counsel, the Public Printer
24 shall cause to be printed any report previously re-
25 leased to the public under paragraph (2). The inde-

1 pendent counsel shall certify the number of copies
2 necessary for the public service, and the Public
3 Printer shall place the cost of the required number
4 to the debit of such independent counsel. Additional
5 copies shall be made available to the public through
6 the depository library program and Superintendent
7 of Documents sales program pursuant to sections
8 1702 and 1903 of title 44.”.

9 (g) ANNUAL REPORTS TO CONGRESS.—Section
10 595(a)(2) of title 28, United States Code, is amended by
11 striking “such statements” and all that follows through
12 “appropriate” and inserting “each quarter a report detail-
13 ing all monies expended and annually a report on the ac-
14 tivities of the independent counsel, including a description
15 of the progress of any investigation or prosecution con-
16 ducted by the independent counsel. Such report may omit
17 any matter that in the judgment of the independent coun-
18 sel should be kept confidential, but shall provide informa-
19 tion adequate to justify the expenditures that the office
20 of the independent counsel has made”.

21 (h) PERIODIC REAPPOINTMENT OF INDEPENDENT
22 COUNSEL.—Section 596(b)(2) of title 28, United States
23 Code, is amended by adding at the end the following new
24 sentence: “If the Attorney General has not made a request
25 under this paragraph, the division of the court shall deter-

1 mine on its own motion whether termination is appro-
2 priate under this paragraph no later than 2 years after
3 the appointment of an independent counsel or the reported
4 expenditures by such independent counsel have reached
5 \$2,000,000, whichever occurs first, and at the end of each
6 succeeding 1-year period.”.

7 (i) AUDITS BY THE COMPTROLLER GENERAL.—Sec-
8 tion 596(c) of title 28, United States Code, is amended
9 to read as follows:

10 “(c) AUDITS.—By December 31 of each year, an
11 independent counsel shall prepare a statement of expendi-
12 tures for the fiscal year that ended on the immediately
13 preceding September 30. An independent counsel whose
14 office is terminated prior to the end of the fiscal year shall
15 prepare a statement of expenditures by the date that is
16 90 days after the date on which the office is terminated.
17 The Comptroller General shall audit each such statement
18 and report the results of each audit to the appropriate
19 committees of the Congress not later than March 31 of
20 the year following the submission of any such statement.”.

21 (j) THRESHOLD INQUIRY.—Section 591(d)(2) of title
22 28, United States Code, is amended by striking “15” each
23 time it appears and inserting “30”.

24 (k) CRIMINAL INTENT.—Section 592(a)(2)(B) of title
25 28, United States Code, is amended to read as follows:

1 “(B) After conducting an examination under
2 section 591(d) or preliminary investigation under
3 this subsection, the Attorney General shall not de-
4 cline to proceed under this chapter based upon a
5 lack of evidence that the subject acted with the state
6 of mind required for a violation of criminal law, un-
7 less the Attorney General determines that, based
8 upon the information obtained, there are no reason-
9 able grounds to believe that the subject acted with
10 the state of mind required for a violation of criminal
11 law, and no reasonable possibility that further inves-
12 tigation would develop such evidence.”.

13 (l) RECUSAL.—Section 591(e) of title 28, United
14 States Code, is amended to read as follows:

15 “(e) RECUSAL OF ATTORNEY GENERAL.—

16 “(1) WHEN RECUSAL IS REQUIRED.—(A) If in-
17 formation received under this chapter involves the
18 Attorney General, the next most senior official in the
19 Department of Justice who is not also recused shall
20 perform the duties assigned under this chapter to
21 the Attorney General.

22 “(B) If information received under this chapter
23 involves a person with whom the Attorney General
24 has a personal or financial relationship, the Attorney
25 General shall recuse himself or herself by designat-

1 ing the next most senior official in the Department
2 of Justice who is not also recused to perform the du-
3 ties assigned under this chapter to the Attorney
4 General.

5 “(2) REQUIREMENTS FOR RECUSAL DETER-
6 MINATION.—Before personally making any other de-
7 termination under this chapter with respect to a
8 matter, the Attorney General shall determine under
9 paragraph (1)(B) whether recusal is necessary. The
10 Attorney General shall set forth this determination
11 in writing, identify the facts considered by the Attor-
12 ney General, and set forth the reasons for the
13 recusal. The Attorney General shall file this deter-
14 mination with any notification or application submit-
15 ted to the division of the court under this chapter
16 with respect to the matter.”.

17 (m) DISCLOSURE OF INFORMATION.—Section 592(e)
18 of title 28, United States Code, is amended by inserting
19 after “Except as otherwise provided in this chapter” the
20 following: “or as necessary for law enforcement purposes”.

21 (n) REQUIREMENT TO USE DEPARTMENT OF JUS-
22 TICE PERSONNEL.—Section 594(d)(1) of title 28, United
23 States Code, is amended to read as follows:

24 “(1) REQUIRED USE.—An independent counsel
25 shall request assistance from the Department of

1 Justice in carrying out the functions of the inde-
2 pendent counsel, and the Department of Justice
3 shall provide that assistance, which may include ac-
4 cess to any records, files, or other materials relevant
5 to matters within such independent counsel’s pros-
6 ecutorial jurisdiction, and the use of the resources
7 and personnel necessary to perform such independ-
8 ent counsel’s duties.”.

9 (o) ATTORNEY FEES.—Section 593(f) of title 28,
10 United States Code, is amended—

11 (1) in paragraph (1), by inserting before the
12 last sentence the following: “No award of attorneys’
13 fees shall be made for any fees that would have been
14 incurred by the individual if the investigation had
15 been conducted by the Department of Justice.”; and

16 (2) in paragraph (2), by striking everything
17 after “subsection,” and inserting the following: “ad-
18 dressing—

19 “(A) the sufficiency of the demonstration;

20 “(B) the need or justification for the un-
21 derlying item;

22 “(C) whether the underlying item would
23 have been incurred but for the requirements of
24 this chapter; and

1 “(D) the reasonableness of the amount of
2 money requested.”.

3 (p) FINAL REPORT.—Section 594(h)(1)(B) of title
4 28, United States Code, is amended—

5 (1) by striking “fully and completely”; and

6 (2) by striking “, and the reasons” through the
7 period and inserting a period.

8 **SEC. 4. MEMBERS OF CONGRESS.**

9 (a) DISCRETIONARY AUTHORITY.—Section 591(c) of
10 title 28, United States Code, is amended to read as fol-
11 lows:

12 “(c) PRELIMINARY INVESTIGATION WITH RESPECT
13 TO OTHER PERSONS AND MATTERS.—

14 “(1) IN GENERAL.—When the Attorney General
15 determines that an investigation or prosecution of a
16 person or matter by the Department of Justice may
17 result in a personal, financial, or political conflict of
18 interest, the Attorney General may conduct a pre-
19 liminary investigation of such person or matter in
20 accordance with section 592 if the Attorney General
21 receives information sufficient to constitute grounds
22 to investigate whether there may have been a viola-
23 tion of Federal criminal law other than a violation
24 classified as a Class B or C misdemeanor or an in-
25 fraction.

1 “(2) MEMBERS OF CONGRESS.—When the At-
2 torney General determines that it would be in the
3 public interest, the Attorney General may conduct a
4 preliminary investigation in accordance with section
5 592 if the Attorney General receives information
6 sufficient to constitute grounds to investigate wheth-
7 er a Member of Congress may have violated any
8 Federal criminal law other than a violation classified
9 as a Class B or C misdemeanor or an infraction.”.

10 (b) POSTEMPLOYMENT COVERAGE.—Section 591(b)
11 of title 28, United States Code, is amended by striking
12 paragraphs (6) and (7) and inserting the following:

13 “(6) any individual who held an office or posi-
14 tion described in paragraphs (1) through (5), for 1
15 year after leaving the office or position or until the
16 President under whom the individual served leaves
17 office, whichever period expires first;

18 “(7) any individual who held an office or posi-
19 tion described in paragraphs (1) through (5) during
20 the incumbency of 1 President and who continued to
21 hold that office or position for not more than 90
22 days into the term of the next President, until the
23 individual leaves such office or position; and”.

1 **SEC. 5. REPORT ON WHITE HOUSE OFFICE PERSONNEL.**

2 (a) SUBMISSION OF REPORT.—Beginning on Janu-
3 ary 1, 1994, and again each 6 months thereafter, the
4 President shall submit a report described under subsection
5 (b) to the Committee on Governmental Affairs of the Sen-
6 ate and the Committee on Government Operations of the
7 House of Representatives.

8 (b) CONTENTS.—The report under subsection (a)
9 shall include—

10 (1) a list of each individual—

11 (A) employed by the White House Office;

12 or

13 (B) detailed to the White House Office;

14 and

15 (2) with regard to each individual described
16 under paragraph (1), such individual's—

17 (A) name;

18 (B) position and title;

19 (C) annual rate of pay; and

20 (D) amount of Federal pay received in the
21 3-month period immediately preceding the date
22 of the submission of the applicable report re-
23 quired by this section.

1 **SEC. 6. REMOVAL OF INDEPENDENT COUNSEL FOR GOOD**
2 **CAUSE.**

3 Section 596(a)(1) of title 28, United States Code, is
4 amended by adding at the end thereof the following: “For
5 purposes of this paragraph, the term ‘good cause’ in-
6 cludes, but is not limited to, (A) the failure of an inde-
7 pendent counsel to follow written Department of Justice
8 guidelines, subject to the limitations of sections 594(f)(1)
9 and 594(l)(1)(B), respecting enforcement of the criminal
10 laws, and (B) violations of canons of ethics governing the
11 independent counsel and Federal prosecutors.”.

12 **SEC. 7. EFFECTIVE DATE.**

13 The amendments made by this Act shall become ef-
14 fective on the date of enactment of this Act, except that
15 the compensation restrictions added by section 3(c) of this
16 Act shall apply only to employees appointed after the date
17 of enactment of this Act.

Passed the Senate November 18 (legislative day, No-
vember 2), 1993.

Attest:

Secretary.

S 24 ES—2

S 24 ES—3

S 24 ES—4

S 24 ES—5