

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 24

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

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. LEVIN (for himself and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

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”.

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

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

1 **SEC. 3. ADDED CONTROLS.**

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

6 “(l) COST CONTROLS AND ADMINISTRATIVE SUP-  
7 PORT.—

8 “(1) COST CONTROLS.—

9 “(A) IN GENERAL.—An independent coun-  
10 sel shall—

11 “(i) conduct all activities with due re-  
12 gard for expense;

13 “(ii) authorize only reasonable and  
14 lawful expenditures; and

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

20 “(B) DEPARTMENT OF JUSTICE POLI-  
21 CIES.—An independent counsel shall comply  
22 with the established policies of the Department  
23 of Justice respecting expenditures of funds, ex-  
24 cept to the extent that compliance would be in-  
25 consistent with the purposes of this chapter.

1           “(2) ADMINISTRATIVE SUPPORT.—The Admin-  
2           istrative Office of the United States Courts shall  
3           provide administrative support and guidance to each  
4           independent counsel. The Administrative Office shall  
5           not disclose information related to an independent  
6           counsel’s expenditures, personnel, or administrative  
7           acts or arrangements without the authorization of  
8           the independent counsel.

9           “(3) OFFICE SPACE.—The General Services Ad-  
10          ministration, in consultation with the Administrative  
11          Office, shall promptly provide appropriate office  
12          space for each independent counsel. Such office  
13          space shall be within a Federal building unless the  
14          General Services Administration determines that  
15          other arrangements would cost less.”.

16          (b) INDEPENDENT COUNSEL PER DIEM EX-  
17          PENSES.— Section 594(b) of title 28, United States Code,  
18          is amended—

19                 (1) by striking “An independent counsel” and  
20                 inserting “(1) IN GENERAL.—An independent coun-  
21                 sel”; and

22                 (2) by adding at the end the following new  
23                 paragraphs:

24                         “(2) TRAVEL EXPENSES.—Except as provided  
25                         in paragraph (3), an independent counsel and per-

1       sons appointed under subsection (c) shall be entitled  
2       to the payment of travel expenses as provided by  
3       subchapter 1 of chapter 57 of title 5, United States  
4       Code, including travel expenses and per diem in lieu  
5       of subsistence in accordance with section 5703 of  
6       title 5.

7               “(3) TRAVEL TO PRIMARY OFFICE.—An inde-  
8       pendent counsel and persons appointed under sub-  
9       section (c) shall not be entitled to the payment of  
10      travel and subsistence expenses under subchapter 1  
11      of chapter 57 of title 5, United States Code, with re-  
12      spect to duties performed in the city in which the  
13      primary office of that independent counsel or person  
14      is located after 1 year of service under this chapter  
15      unless the employee assigned duties under sub-  
16      section (l)(1)(A)(iii) certifies that the payment is in  
17      the public interest to carry out the purposes of this  
18      chapter.”.

19              (c) INDEPENDENT COUNSEL EMPLOYEE PAY COM-  
20      PARABILITY.—Section 594(c) of title 28, United States  
21      Code, is amended by striking the last sentence and insert-  
22      ing: “Such employees shall be compensated at levels not  
23      to exceed those payable for comparable positions in the  
24      Office of United States Attorney for the District of Colum-  
25      bia under sections 548 and 550, but in no event shall any

1 such employee be compensated at a rate greater than the  
2 rate of basic pay payable for level IV of the Executive  
3 Schedule under section 5315 of title 5.”.

4 (d) ETHICS ENFORCEMENT.—Section 594(j) of title  
5 28, United States Code, is amended by adding at the end  
6 the following new paragraph:

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

10 (e) COMPLIANCE WITH POLICIES OF THE DEPART-  
11 MENT OF JUSTICE.—Section 594(f) is amended by strik-  
12 ing “shall, except where not possible, comply” and insert-  
13 ing “shall, except to the extent that to do so would be  
14 inconsistent with the purposes of this chapter, comply”.

15 (f) PUBLICATION OF REPORTS.—Section 594(h) of  
16 title 28, United States Code, is amended—

17 (1) by adding at the end the following new  
18 paragraph:

19 “(3) PUBLICATION OF REPORTS.—At the re-  
20 quest of an independent counsel, the Public Printer  
21 shall cause to be printed any report previously re-  
22 leased to the public under paragraph (2). The inde-  
23 pendent counsel shall certify the number of copies  
24 necessary for the public service, and the Public  
25 Printer shall place the cost of the required number

1 to the debit of such independent counsel. Additional  
2 copies shall be made available to the public through  
3 the depository library program and Superintendent  
4 of Documents sales program pursuant to sections  
5 1702 and 1903 of title 44.”; and

6 (2) in the first sentence of paragraph (2), by  
7 striking “appropriate” the second place it appears  
8 and inserting “in the public interest, consistent with  
9 maximizing public disclosure, ensuring a full expla-  
10 nation of independent counsel activities and decision-  
11 making, and facilitating the release of information  
12 and materials which the independent counsel has de-  
13 termined should be disclosed”.

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

1 (h) PERIODIC REAPPOINTMENT OF INDEPENDENT  
2 COUNSEL.—Section 596(b)(2) of title 28, United States  
3 Code, is amended by adding at the end the following new  
4 sentence: “If the Attorney General has not made a request  
5 under this paragraph, the division of the court shall deter-  
6 mine on its own motion whether termination is appro-  
7 priate under this paragraph no later than 3 years after  
8 the appointment of an independent counsel and at the end  
9 of each succeeding 3-year period.”.

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

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

1 **SEC. 4. MEMBERS OF CONGRESS.**

2 Section 591(c) of title 28, United States Code, is  
3 amended—

4 (1) by redesignating paragraphs (1) and (2) as  
5 subparagraphs (A) and (B), respectively;

6 (2) by designating the text as paragraph (1)  
7 and inserting at the beginning of the text the follow-  
8 ing: “(1) IN GENERAL.—”; and

9 (3) by adding at the end the following new  
10 paragraph:

11 “(2) MEMBERS OF CONGRESS.—When the At-  
12 torney General determines that it would be in the  
13 public interest, the Attorney General may conduct a  
14 preliminary investigation in accordance with section  
15 592 if the Attorney General receives information  
16 sufficient to constitute grounds to investigate wheth-  
17 er a Member of Congress may have violated any  
18 Federal criminal law other than a violation classified  
19 as a Class B or C misdemeanor or an infraction.”.

20 **SEC. 5. EFFECTIVE DATE.**

21 The amendments made by this Act shall become ef-  
22 fective on the date of enactment of this Act.

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