

103D CONGRESS  
1ST SESSION

# H. R. 811

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

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. BROOKS (for himself, Mr. BRYANT, and Mr. FRANK of Massachusetts)  
introduced the following bill; which was referred to the Committee on the  
Judiciary

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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 Director  
2 of the Administrative Office of the United States  
3 Courts shall provide administrative support and  
4 guidance to each independent counsel. No officer or  
5 employee of the Administrative Office of the United  
6 States Courts shall disclose information related to  
7 an independent counsel’s expenditures, personnel, or  
8 administrative acts or arrangements without the au-  
9 thorization of the independent counsel.

10           “(3) OFFICE SPACE.—The Administrator of  
11 General Services, in consultation with the Director  
12 of the Administrative Office of the United States  
13 Courts, shall promptly provide appropriate office  
14 space for each independent counsel. Such office  
15 space shall be within a Federal building unless the  
16 Administrator of General Services determines that  
17 other arrangements would cost less.”.

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

21           (1) by striking “An independent counsel” and  
22 inserting

23           “(1) IN GENERAL.—An independent counsel”;  
24 and

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

3           “(2) TRAVEL EXPENSES.—Except as provided  
4 in paragraph (3), an independent counsel and per-  
5 sons appointed under subsection (c) shall be entitled  
6 to the payment of travel expenses as provided by  
7 subchapter 1 of chapter 57 of title 5, including trav-  
8 el or transportation expenses in accordance with sec-  
9 tion 5703 of title 5.

10           “(3) TRAVEL TO PRIMARY OFFICE.—An inde-  
11 pendent counsel and any person appointed under  
12 subsection (c) shall not be entitled to the payment  
13 of travel and subsistence expenses under subchapter  
14 1 of chapter 57 of title 5 with respect to duties per-  
15 formed in the city in which the primary office of  
16 that independent counsel or person is located after  
17 1 year of service by that independent counsel or per-  
18 son (as the case may be) under this chapter unless  
19 the employee assigned duties under subsection  
20 (l)(1)(A)(iii) certifies that the payment is in the pub-  
21 lic interest to carry out the purposes of this chapter.  
22 Any such certification shall be effective for 6  
23 months, but may be renewed for additional periods  
24 of 6-months each if, for each such renewal, the em-  
25 ployee assigned duties under subsection (l)(1)(A)(iii)

1 makes a recertification with respect to the public in-  
2 terest described in the preceding sentence. In mak-  
3 ing any certification or recertification under this  
4 paragraph with respect to travel and subsistence ex-  
5 penses of an independent counsel or person ap-  
6 pointed under subsection (c), such employee shall  
7 consider, among other relevant factors—

8 “(A) the cost to the Government of reim-  
9 bursing such travel and subsistence expenses;

10 “(B) the period of time for which the inde-  
11 pendent counsel anticipates that the activities  
12 of the independent counsel or person, as the  
13 case may be, will continue;

14 “(C) the personal and financial burdens on  
15 the independent counsel or person, as the case  
16 may be, of relocating so that such travel and  
17 subsistence expenses would not be incurred; and

18 “(D) the burdens associated with appoint-  
19 ing a new independent counsel, or appointing  
20 another person under subsection (c), to replace  
21 the individual involved who is unable or unwill-  
22 ing to so relocate.”.

23 (c) INDEPENDENT COUNSEL EMPLOYEE PAY COM-  
24 PARABILITY.—Section 594(c) of title 28, United States  
25 Code, is amended by striking the last sentence and insert-

1 ing the following: “Such employees shall be compensated  
2 at levels not to exceed those payable for comparable posi-  
3 tions in the Office of United States Attorney for the Dis-  
4 trict of Columbia under sections 548 and 550, but in no  
5 event shall any such employee be compensated at a rate  
6 greater than the rate of basic pay payable for level IV of  
7 the Executive Schedule under section 5315 of title 5.”.

8 (d) ETHICS ENFORCEMENT.—Section 594(j) of title  
9 28, United States Code, is amended by adding at the end  
10 the following new paragraph:

11 “(5) ENFORCEMENT.—The Attorney General  
12 and the Director of the Office of Government Ethics  
13 have authority to enforce compliance with this sub-  
14 section.”.

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

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

22 (1) by adding at the end the following new  
23 paragraph:

24 “(3) PUBLICATION OF REPORTS.—At the re-  
25 quest of an independent counsel, the Public Printer

1 shall cause to be printed any report previously re-  
2 leased to the public under paragraph (2). The inde-  
3 pendent counsel shall certify the number of copies  
4 necessary for the public, and the Public Printer shall  
5 place the cost of the required number to the debit  
6 of such independent counsel. Additional copies shall  
7 be made available to the public through the Super-  
8 intendent of Documents sales program under section  
9 1702 of title 44 and the depository library program  
10 under section 1903 of such title.”; and

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

19 (g) ANNUAL REPORTS TO CONGRESS.—Section  
20 595(a)(2) of title 28, United States Code, is amended by  
21 striking “such statements” and all that follows through  
22 “appropriate” and inserting “annually a report on the ac-  
23 tivities of the independent counsel, including a description  
24 of the progress of any investigation or prosecution con-  
25 ducted by the independent counsel. Such report may omit

1 any matter that in the judgment of the independent coun-  
2 sel should be kept confidential, but shall provide informa-  
3 tion adequate to justify the expenditures that the office  
4 of the independent counsel has made”.

5 (h) PERIODIC REAPPOINTMENT OF INDEPENDENT  
6 COUNSEL.—Section 596(b)(2) of title 28, United States  
7 Code, is amended by adding at the end the following new  
8 sentence: “If the Attorney General has not made a request  
9 under this paragraph, the division of the court shall deter-  
10 mine on its own motion whether termination is appro-  
11 priate under this paragraph not later than 3 years after  
12 the appointment of an independent counsel and at the end  
13 of each succeeding 3-year period.”.

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

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

1 the submission of any such statement, report the results  
2 of each audit to the Committee on the Judiciary and the  
3 Committee on Government Operations of the House of  
4 Representatives and to the Committee on Governmental  
5 Affairs and the Committee on the Judiciary of the Sen-  
6 ate.”.

7 **SEC. 4. MEMBERS OF CONGRESS.**

8 Section 591(c) of title 28, United States Code, is  
9 amended—

10 (1) by indenting paragraphs (1) and (2) two  
11 ems to the right and by redesignating such para-  
12 graphs as subparagraphs (A) and (B), respectively;

13 (2) by striking “The Attorney” and all that fol-  
14 lows through “if—” and inserting the following:

15 “(1) IN GENERAL.—The Attorney General may  
16 conduct a preliminary investigation in accordance  
17 with section 592 if—”; and

18 (3) by adding at the end the following new  
19 paragraph:

20 “(2) MEMBERS OF CONGRESS.—When the At-  
21 torney General determines that it would be in the  
22 public interest, the Attorney General may conduct a  
23 preliminary investigation in accordance with section  
24 592 if the Attorney General receives information  
25 sufficient to constitute grounds to investigate wheth-

1 er a Member of Congress may have violated any  
2 Federal criminal law other than a violation classified  
3 as a Class B or C misdemeanor or an infraction.”.

4 **SEC. 5. EFFECTIVE DATE.**

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

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