

**Union Calendar No. 125**

103D CONGRESS  
1ST SESSION

**H. R. 811**

**[Report No. 103-224]**

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**A BILL**

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

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AUGUST 6, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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1<sup>ST</sup> SESSION**H. R. 811****[Report No. 103-224]**

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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

AUGUST 6, 1993

Additional sponsors: Mrs. UNSOELD, Mr. HAMBURG, and Mr. CONYERS

AUGUST 6, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of the introduced bill, see copy of bill as introduced on February 4, 1993]

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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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Independent Counsel*  
3 *Reauthorization Act of 1993”.*

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

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

7 **SEC. 3. ADDED CONTROLS.**

8 *(a) COST CONTROLS AND ADMINISTRATIVE SUP-*  
9 *PORT.—Section 594 of title 28, United States Code, is*  
10 *amended by adding at the end the following new subsection:*

11 *“(l) COST CONTROLS AND ADMINISTRATIVE SUP-*  
12 *PORT.—*

13 *“(1) COST CONTROLS.—*

14 *“(A) IN GENERAL.—An independent counsel*  
15 *shall—*

16 *“(i) conduct all activities with due re-*  
17 *gard for expense;*

18 *“(ii) authorize only reasonable and*  
19 *lawful expenditures; and*

20 *“(iii) promptly, upon taking office, as-*  
21 *sign to a specific employee the duty of cer-*  
22 *tifying that expenditures of the independent*  
23 *counsel are reasonable and made in accord-*  
24 *ance with law.*

25 *“(B) DEPARTMENT OF JUSTICE POLICIES.—*

26 *An independent counsel shall comply with the es-*

1           *established policies of the Department of Justice*  
2           *respecting expenditures of funds, except to the ex-*  
3           *tent that compliance would be inconsistent with*  
4           *the purposes of this chapter.*

5           “(2) *ADMINISTRATIVE SUPPORT.*—*The Director*  
6           *of the Administrative Office of the United States*  
7           *Courts shall provide administrative support and*  
8           *guidance to each independent counsel. No officer or*  
9           *employee of the Administrative Office of the United*  
10          *States Courts shall disclose information related to an*  
11          *independent counsel’s expenditures, personnel, or ad-*  
12          *ministrative acts or arrangements without the author-*  
13          *ization of the independent counsel.*

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

22          “(b) *INDEPENDENT COUNSEL PER DIEM EXPENSES.*—  
23          *Section 594(b) of title 28, United States Code, is amend-*  
24          *ed—*

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

3           “(1) *IN GENERAL.*—An independent counsel”;  
4           and

5           (2) by adding at the end the following new para-  
6           graphs:

7           “(2) *TRAVEL EXPENSES.*—Except as provided in  
8           paragraph (3), an independent counsel and persons  
9           appointed under subsection (c) shall be entitled to the  
10          payment of travel expenses as provided by subchapter  
11          1 of chapter 57 of title 5, including travel or trans-  
12          portation expenses in accordance with section 5703 of  
13          title 5.

14          “(3) *TRAVEL TO PRIMARY OFFICE.*—An inde-  
15          pendent counsel and any person appointed under sub-  
16          section (c) shall not be entitled to the payment of  
17          travel and subsistence expenses under subchapter 1 of  
18          chapter 57 of title 5 with respect to duties performed  
19          in the city in which the primary office of that inde-  
20          pendent counsel or person is located after 1 year of  
21          service by that independent counsel or person (as the  
22          case may be) under this chapter unless the employee  
23          assigned duties under subsection (l)(1)(A)(iii) certifies  
24          that the payment is in the public interest to carry out  
25          the purposes of this chapter. Any such certification

1       *shall be effective for 6 months, but may be renewed for*  
2       *additional periods of 6-months each if, for each such*  
3       *renewal, the employee assigned duties under sub-*  
4       *section (l)(1)(A)(iii) makes a recertification with re-*  
5       *spect to the public interest described in the preceding*  
6       *sentence. In making any certification or*  
7       *recertification under this paragraph with respect to*  
8       *travel and subsistence expenses of an independent*  
9       *counsel or person appointed under subsection (c), such*  
10       *employee shall consider, among other relevant fac-*  
11       *tors—*

12                “(A) *the cost to the Government of reim-*  
13                *bursing such travel and subsistence expenses;*

14                “(B) *the period of time for which the inde-*  
15                *pendent counsel anticipates that the activities of*  
16                *the independent counsel or person, as the case*  
17                *may be, will continue;*

18                “(C) *the personal and financial burdens on*  
19                *the independent counsel or person, as the case*  
20                *may be, of relocating so that such travel and*  
21                *subsistence expenses would not be incurred; and*

22                “(D) *the burdens associated with appoint-*  
23                *ing a new independent counsel, or appointing*  
24                *another person under subsection (c), to replace*

1           *the individual involved who is unable or unwill-*  
2           *ing to so relocate.*

3           *An employee making a certification or recertification*  
4           *under this paragraph shall be liable for an invalid*  
5           *certification or recertification to the same extent as a*  
6           *certifying official certifying a voucher is liable under*  
7           *section 3528 of title 31.”.*

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

18          (d) *ETHICS ENFORCEMENT.—Section 594(j) of title*  
19          *28, United States Code, is amended by adding at the end*  
20          *the following new paragraph:*

21                  *“(5) ENFORCEMENT.—The Attorney General and*  
22                  *the Director of the Office of Government Ethics have*  
23                  *authority to enforce compliance with this subsection.”.*

24          (e) *COMPLIANCE WITH POLICIES OF THE DEPART-*  
25          *MENT OF JUSTICE.—Section 594(f) of title 28, United*

1 *States Code, is amended by striking “shall, except where*  
2 *not possible, comply” and inserting “shall, except to the ex-*  
3 *tent that to do so would be inconsistent with the purposes*  
4 *of this chapter, comply”.*

5 *(f) PUBLICATION OF REPORTS.—Section 594(h) of title*  
6 *28, United States Code, is amended—*

7 *(1) by adding at the end the following new para-*  
8 *graph:*

9 *“(3) PUBLICATION OF REPORTS.—At the request*  
10 *of an independent counsel, the Public Printer shall*  
11 *cause to be printed any report previously released to*  
12 *the public under paragraph (2). The independent*  
13 *counsel shall certify the number of copies necessary*  
14 *for the public, and the Public Printer shall place the*  
15 *cost of the required number to the debit of such inde-*  
16 *pendent counsel. Additional copies shall be made*  
17 *available to the public through the Superintendent of*  
18 *Documents sales program under section 1702 of title*  
19 *44 and the depository library program under section*  
20 *1903 of such title.”; and*

21 *(2) in the first sentence of paragraph (2), by*  
22 *striking “appropriate” the second place it appears*  
23 *and inserting “in the public interest, consistent with*  
24 *maximizing public disclosure, ensuring a full expla-*  
25 *nation of independent counsel activities and decision-*

1        *making, and facilitating the release of information*  
2        *and materials which the independent counsel has de-*  
3        *termined should be disclosed”.*

4        (g) *ANNUAL REPORTS TO CONGRESS.*—Section  
5        *595(a)(2) of title 28, United States Code, is amended by*  
6        *striking “such statements” and all that follows through “ap-*  
7        *propriate” and inserting “annually a report on the activi-*  
8        *ties of the independent counsel, including a description of*  
9        *the progress of any investigation or prosecution conducted*  
10       *by the independent counsel. Such report may omit any mat-*  
11       *ter that in the judgment of the independent counsel should*  
12       *be kept confidential, but shall provide information adequate*  
13       *to justify the expenditures that the office of the independent*  
14       *counsel has made”.*

15       (h) *PERIODIC REAPPOINTMENT OF INDEPENDENT*  
16       *COUNSEL.*—Section 596(b)(2) of title 28, United States  
17       *Code, is amended by adding at the end the following new*  
18       *sentence: “If the Attorney General has not made a request*  
19       *under this paragraph, the division of the court shall deter-*  
20       *mine on its own motion whether termination is appropriate*  
21       *under this paragraph not later than 3 years after the ap-*  
22       *pointment of an independent counsel and at the end of each*  
23       *succeeding 3-year period.”.*

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

4       “(c) *AUDITS.*—*By December 31 of each year, an inde-*  
5 *pendent counsel shall prepare a statement of expenditures*  
6 *for the fiscal year that ended on the immediately preceding*  
7 *September 30. An independent counsel whose office is termi-*  
8 *nated prior to the end of the fiscal year shall prepare a*  
9 *statement of expenditures by the date that is 90 days after*  
10 *the date on which the office is terminated. The Comptroller*  
11 *General shall audit each such statement and shall, not later*  
12 *than March 31 of the year following the submission of any*  
13 *such statement, report the results of each audit to the Com-*  
14 *mittee on the Judiciary and the Committee on Government*  
15 *Operations of the House of Representatives and to the Com-*  
16 *mittee on Governmental Affairs and the Committee on the*  
17 *Judiciary of the Senate.”*

18 **SEC. 4. MEMBERS OF CONGRESS.**

19       *Section 591(c) of title 28, United States Code, is*  
20 *amended—*

21           (1) *by indenting paragraphs (1) and (2) two*  
22 *ems to the right and by redesignating such para-*  
23 *graphs as subparagraphs (A) and (B), respectively;*

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

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

4           (3) *by adding at the end the following new para-*  
5           *graph:*

6           “(2) *MEMBERS OF CONGRESS.*—*When the Attor-*  
7           *ney General determines that it would be in the public*  
8           *interest, the Attorney General may conduct a prelimi-*  
9           *nary investigation in accordance with section 592 if*  
10          *the Attorney General receives information sufficient to*  
11          *constitute grounds to investigate whether a Member of*  
12          *Congress may have violated any Federal criminal law*  
13          *other than a violation classified as a Class B or C*  
14          *misdemeanor or an infraction.*”.

15   **SEC. 5. GROUNDS FOR REMOVAL.**

16          *Section 596(a)(1) of title 28, United States Code, is*  
17          *amended by striking “physical disability, mental incapac-*  
18          *ity” and inserting “physical or mental disability (consist-*  
19          *ent with prohibitions on discrimination otherwise imposed*  
20          *by law)”.*

21   **SEC. 6. EFFECTIVE DATE.**

22          *The amendments made by this Act shall become effec-*  
23          *tive on the date of the enactment of this Act.*