

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To establish an Independent Counsel on Pernicious Political Activities, and  
for other purposes.

---

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Mr. MERKLEY, and Mr. MARKEY) introduced the  
following bill; which was read twice and referred to the Committee on

---

**A BILL**

To establish an Independent Counsel on Pernicious Political  
Activities, 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 “Political Corruption  
5 Review of Infractions for Misconduct by Executive Serv-  
6 ants Act” or the “Political CRIMES Act”.

7 **SEC. 2. INDEPENDENT COUNSEL ON PERNICIOUS POLIT-**  
8 **ICAL ACTIVITIES.**

9 (a) APPLICABILITY OF PROVISIONS OF THIS SEC-  
10 TION.—

1           (1) PRELIMINARY INVESTIGATION WITH RE-  
2           SPECT TO CERTAIN COVERED PERSONS.—The Attor-  
3           ney General shall conduct a preliminary investiga-  
4           tion in accordance with subsection (b) whenever the  
5           Attorney General receives information sufficient to  
6           constitute grounds to investigate whether any person  
7           described in paragraph (2) may have violated, be-  
8           tween January 20, 2009 and January 21, 2021—

9                   (A) section 7323 or 7324 of title 5, United  
10                  States Code, as amended by this Act; or

11                   (B) section 610 of title 18, United States  
12                  Code.

13           For purposes of this section, such a violation shall  
14           be referred to as a “covered violation”.

15           (2) PERSONS TO WHOM PARAGRAPH (1) AP-  
16           PLIES.—The persons referred to in paragraph (1)  
17           are—

18                   (A) the President and Vice President;

19                   (B) any individual serving in a position  
20                  listed in section 5312 of title 5, United States  
21                  Code;

22                   (C) any individual working in the Execu-  
23                  tive Office of the President who is compensated  
24                  at a rate of pay at or above level II of the Exec-

1           utive Schedule under section 5313 of title 5,  
2           United States Code;

3           (D) any Assistant Attorney General and  
4           any individual working in the Department of  
5           Justice who is compensated at a rate of pay at  
6           or above level III of the Executive Schedule  
7           under section 5314 of title 5, United States  
8           Code;

9           (E) the Director of Central Intelligence,  
10          the Deputy Director of Central Intelligence, and  
11          the Commissioner of Internal Revenue; and

12          (F) for a period of 1 year after leaving an  
13          office or position described in subparagraph  
14          (A), (B), (C), (D), or (E), each individual who  
15          held such office or position.

16          (3) PRELIMINARY INVESTIGATION WITH RE-  
17          SPECT TO OTHER PERSONS.—When the Attorney  
18          General determines that an investigation or prosecu-  
19          tion of a person by the Department of Justice may  
20          result in a personal, financial, or political conflict of  
21          interest, the Attorney General may conduct a pre-  
22          liminary investigation of such person in accordance  
23          with subsection (b) if the Attorney General receives  
24          information sufficient to constitute grounds to inves-

1        tigate whether that person may have committed a  
2        covered violation.

3                (4) EXAMINATION OF INFORMATION TO DETER-  
4        MINE NEED FOR PRELIMINARY INVESTIGATION.—

5                (A) FACTORS TO BE CONSIDERED.—In de-  
6        termining whether grounds to investigate exist,  
7        the Attorney General shall consider only—

8                        (i) the specificity of the information  
9                        received; and

10                        (ii) the credibility of the source of the  
11                        information.

12                (B) TIME PERIOD FOR MAKING DETER-  
13        MINATION.—The Attorney General shall deter-  
14        mine whether grounds to investigate exist not  
15        later than 30 days after the information is first  
16        received. If within that 30-day period the Attor-  
17        ney General determines that the information is  
18        not specific or is not from a credible source,  
19        then the Attorney General shall close the mat-  
20        ter, and submit a report, not later than 7 days  
21        thereafter to the Committee on the Judiciary of  
22        the Senate and the Committee on the Judiciary  
23        of the House of Representatives. If within that  
24        30-day period the Attorney General determines  
25        that the information is specific and from a

1           credible source, the Attorney General shall,  
2           upon making that determination, commence a  
3           preliminary investigation with respect to that  
4           information. If the Attorney General is unable  
5           to determine, within that 30-day period, wheth-  
6           er the information is specific and from a cred-  
7           ible source, the Attorney General shall, at the  
8           end of that 30-day period, commence a prelimi-  
9           nary investigation with respect to that informa-  
10          tion.

11          (5) RECUSAL OF ATTORNEY GENERAL.—

12                 (A) WHEN RECUSAL IS REQUIRED.—

13                         (i) If information received under this  
14                         section involves the Attorney General, the  
15                         Attorney General shall recuse themselves  
16                         by designating the next most senior official  
17                         in the Department of Justice who is not  
18                         also recused to perform the duties assigned  
19                         under this section to the Attorney General.

20                         (ii) If information received under this  
21                         section involves a person with whom the  
22                         Attorney General has a personal or finan-  
23                         cial relationship, the Attorney General  
24                         shall recuse themselves by designating the  
25                         next most senior official in the Department

1 of Justice who is not also recused to per-  
2 form the duties assigned under this section  
3 to the Attorney General.

4 (B) REQUIREMENTS FOR RECUSAL DETER-  
5 MINATION.—Before personally making any  
6 other determination under this section with re-  
7 spect to information received under this section,  
8 the Attorney General shall determine under  
9 subparagraph (A)(ii) whether recusal is nec-  
10 essary. The Attorney General shall set forth  
11 this determination in writing, identify the facts  
12 considered by the Attorney General, and set  
13 forth the reasons for the recusal. The Attorney  
14 General shall file this determination with any  
15 notification or application submitted to the divi-  
16 sion of the court under this section with respect  
17 to such information.

18 (b) PRELIMINARY INVESTIGATION AND APPLICATION  
19 FOR APPOINTMENT OF AN INDEPENDENT COUNSEL.—

20 (1) CONDUCT OF PRELIMINARY INVESTIGA-  
21 TION.—

22 (A) IN GENERAL.—A preliminary inves-  
23 tigation conducted under this section shall be of  
24 such matters as the Attorney General considers  
25 appropriate in order to make a determination,

1 under paragraph (2) or (3), on whether further  
2 investigation is warranted, with respect to each  
3 potential covered violation, or allegation of a  
4 covered violation. The Attorney General shall  
5 make such determination not later than 90 days  
6 after the preliminary investigation is com-  
7 menced, except that, in the case of a prelimi-  
8 nary investigation commenced after a congres-  
9 sional request under paragraph (7), the Attor-  
10 ney General shall make such determination not  
11 later than 90 days after the request is received.  
12 The Attorney General shall promptly notify the  
13 division of the court specified in subsection (c)  
14 of the commencement of such preliminary inves-  
15 tigation and the date of such commencement.

16 (B) EXTENSION OF TIME FOR PRELIMI-  
17 NARY INVESTIGATION.—The Attorney General  
18 may apply to the division of the court for a sin-  
19 gle extension, for a period of not more than 60  
20 days, of the 90-day period referred to in sub-  
21 paragraph (A). The division of the court may,  
22 upon a showing of good cause, grant such ex-  
23 tension.

24 (2) DETERMINATION THAT FURTHER INVES-  
25 TIGATION NOT WARRANTED.—

1 (A) NOTIFICATION OF DIVISION OF THE  
2 COURT.—If the Attorney General, upon comple-  
3 tion of a preliminary investigation under this  
4 section, determines that there are no reasonable  
5 grounds to believe that further investigation is  
6 warranted, the Attorney General shall promptly  
7 so notify the division of the court, and the divi-  
8 sion of the court shall have no power to appoint  
9 an independent counsel with respect to the mat-  
10 ters involved. The division of the court shall  
11 issue a report in agreement with the Attorney  
12 General’s investigation. The Inspector General  
13 of the Department of Justice shall review the  
14 Attorney General’s determination to not con-  
15 tinue an investigation and provide notification  
16 to the appropriate Congressional committees  
17 that such an investigation is underway within 3  
18 days after the Attorney General’s determina-  
19 tion.

20 (B) FORM OF NOTIFICATION.—Such notifi-  
21 cation shall contain a summary of the informa-  
22 tion received and a summary of the results of  
23 the preliminary investigation.

24 (3) DETERMINATION THAT FURTHER INVES-  
25 TIGATION IS WARRANTED.—



1 (A) APPLICATION FOR APPOINTMENT OF  
2 INDEPENDENT COUNSEL.—The Attorney Gen-  
3 eral shall apply to the division of the court for  
4 the appointment of an independent counsel if—

5 (i) the Attorney General, upon com-  
6 pletion of a preliminary investigation under  
7 this section, determines that there are rea-  
8 sonable grounds to believe that further in-  
9 vestigation is warranted; or

10 (ii) the 90-day period referred to in  
11 paragraph (1)(A), and any extension  
12 granted under paragraph (1)(C), have  
13 elapsed and the Attorney General has not  
14 filed a notification with the division of the  
15 court under paragraph (2)(A).

16 In determining under this section whether rea-  
17 sonable grounds exist to warrant further inves-  
18 tigation, the Attorney General shall comply with  
19 the written or other established policies of the  
20 Department of Justice with respect to the con-  
21 duct of criminal investigations

22 (B) RECEIPT OF ADDITIONAL INFORMA-  
23 TION.—If, after submitting a notification under  
24 paragraph (2)(A), the Attorney General receives  
25 additional information sufficient to constitute

1 grounds to investigate the matters to which  
2 such notification related, the Attorney General  
3 shall—

4 (i) conduct such additional prelimi-  
5 nary investigation as the Attorney General  
6 considers appropriate for a period of not  
7 more than 90 days after the date on which  
8 such additional information is received;  
9 and

10 (ii) otherwise comply with the provi-  
11 sions of this subsection with respect to  
12 such additional preliminary investigation to  
13 the same extent as any other preliminary  
14 investigation under this section.

15 (4) CONTENTS OF APPLICATION.—Any applica-  
16 tion for the appointment of an independent counsel  
17 under this section shall contain sufficient informa-  
18 tion to assist the division of the court in selecting an  
19 independent counsel and in defining that inde-  
20 pendent counsel's prosecutorial jurisdiction so that  
21 the independent counsel has adequate authority to  
22 fully investigate and prosecute the subject matter  
23 and all matters related to that subject matter.

24 (5) DISCLOSURE OF INFORMATION.—Except as  
25 otherwise provided in this section or as is deemed

1 necessary for law enforcement purposes, no officer  
2 or employee of the Department of Justice or an of-  
3 fice of independent counsel may, without leave of the  
4 division of the court, disclose to any individual out-  
5 side the Department of Justice or such office any  
6 notification, application, or any other document, ma-  
7 terials, or memorandum supplied to the division of  
8 the court under this section. Nothing in this section  
9 shall be construed as authorizing the withholding of  
10 information from the Congress.

11 (6) LIMITATION ON JUDICIAL REVIEW.—The  
12 Attorney General’s determination under this section  
13 to apply to the division of the court for the appoint-  
14 ment of an independent counsel shall not be review-  
15 able in any court.

16 (7) CONGRESSIONAL REQUEST.—

17 (A) BY JUDICIARY COMMITTEE OR MEM-  
18 BERS THEREOF.—The Committee on the Judi-  
19 ciary of either House of the Congress, or a ma-  
20 jority of majority party members of either such  
21 committee, may request in writing that the At-  
22 torney General apply for the appointment of an  
23 independent counsel.

24 (B) REPORT BY ATTORNEY GENERAL PUR-  
25 SUANT TO REQUEST.—Not later than 30 days

1 after the receipt of a request under subpara-  
2 graph (A), the Attorney General shall submit,  
3 to the committee making the request, or to the  
4 committee on which the persons making the re-  
5 quest serve, a report on whether the Attorney  
6 General has begun or will begin a preliminary  
7 investigation under this section of the matters  
8 with respect to which the request is made, in  
9 accordance with paragraph (1) or (3) of sub-  
10 section (a), as the case may be. The report shall  
11 set forth the reasons for the Attorney General's  
12 decision regarding such preliminary investiga-  
13 tion as it relates to each of the matters with re-  
14 spect to which the congressional request is  
15 made. If there is such a preliminary investiga-  
16 tion, the report shall include the date on which  
17 the preliminary investigation began or will  
18 begin.

19 (C) SUBMISSION OF INFORMATION IN RE-  
20 SPONSE TO CONGRESSIONAL REQUEST.—At the  
21 same time as any notification, application, or  
22 any other document, material, or memorandum  
23 is supplied to the division of the court pursuant  
24 to this section with respect to a preliminary in-  
25 vestigation of any matter with respect to which

1 a request is made under subparagraph (A),  
2 such notification, application, or other docu-  
3 ment, material, or memorandum shall be sup-  
4 plied to the committee making the request, or  
5 to the committee on which the persons making  
6 the request serve. If no application for the ap-  
7 pointment of an independent counsel is made to  
8 the division of the court under this subsection  
9 pursuant to such a preliminary investigation,  
10 the Attorney General shall submit a report to  
11 that committee stating the reasons why such  
12 application was not made, addressing each mat-  
13 ter with respect to which the congressional re-  
14 quest was made.

15 (D) DISCLOSURE OF INFORMATION.—Any  
16 report, notification, application, or other docu-  
17 ment, material, or memorandum supplied to a  
18 committee under this paragraph shall not be re-  
19 vealed to any third party, except that the com-  
20 mittee may, either on its own initiative or upon  
21 the request of the Attorney General, make pub-  
22 lic such portion or portions of such report, noti-  
23 fication, application, document, material, or  
24 memorandum as will not in the committee's  
25 judgment prejudice the rights of any individual.

1 (c) DUTIES OF THE DIVISION OF THE COURT.—

2 (1) REFERENCE TO DIVISION OF THE COURT.—

3 The division of the court to which this Act refers is  
4 the division established under section 49 of title 28,  
5 United States Code. A division shall be so estab-  
6 lished if not in effect on the date of enactment of  
7 this Act.

8 (2) APPOINTMENT AND JURISDICTION OF INDE-  
9 PENDENT COUNSEL.—

10 (A) AUTHORITY.—Upon receipt of an ap-  
11 plication under subsection (b)(3), the division of  
12 the court shall appoint an appropriate inde-  
13 pendent counsel and shall define that inde-  
14 pendent counsel's prosecutorial jurisdiction.

15 (B) QUALIFICATIONS OF INDEPENDENT  
16 COUNSEL.—The division of the court shall ap-  
17 point as independent counsel an individual who  
18 has appropriate experience and who will con-  
19 duct the investigation and any prosecution in a  
20 prompt, responsible, and cost-effective manner.  
21 The division of the court shall seek to appoint  
22 as independent counsel an individual who will  
23 serve to the extent necessary to complete the in-  
24 vestigation and any prosecution without undue  
25 delay. The division of the court may not ap-

1 point as an independent counsel any person who  
2 holds any office of profit or trust under the  
3 United States.

4 (C) SCOPE OF PROSECUTORIAL JURISDIC-  
5 TION.—In defining the independent counsel’s  
6 prosecutorial jurisdiction, the division of the  
7 court shall assure that the independent counsel  
8 has adequate authority to fully investigate and  
9 prosecute covered violations. Such jurisdiction  
10 shall also include the authority to investigate  
11 and prosecute Federal crimes, other than those  
12 classified as Class B or C misdemeanors or in-  
13 fractions, that may arise out of the investiga-  
14 tion or prosecution of the matter with respect  
15 to which the Attorney General’s request was  
16 made, including perjury, obstruction of justice,  
17 destruction of evidence, and intimidation of wit-  
18 nesses.

19 (D) DISCLOSURE OF IDENTITY AND PROS-  
20 ECUTORIAL JURISDICTION.—An independent  
21 counsel’s identity and prosecutorial jurisdiction  
22 (including any expansion under paragraph (3))  
23 may not be made public except upon the re-  
24 quest of the Attorney General or upon a deter-  
25 mination of the division of the court that disclo-

1           sure of the identity and prosecutorial jurisdic-  
2           tion of such independent counsel would be in  
3           the best interests of justice. In any event, the  
4           identity and prosecutorial jurisdiction of such  
5           independent counsel shall be made public when  
6           any indictment is returned, or any criminal in-  
7           formation is filed, pursuant to the independent  
8           counsel's investigation.

9           (3) RETURN FOR FURTHER INVESTIGATION.—

10          Upon receipt of a notification from the Attorney  
11          General that there are no reasonable grounds to be-  
12          lieve that further investigation is warranted with re-  
13          spect to information received under this section, the  
14          division of the court shall have no authority to over-  
15          rule this determination but may return the matter to  
16          the Attorney General for further explanation of the  
17          reasons for such determination.

18          (4) VACANCIES.—If a vacancy in office arises  
19          by reason of the resignation, death, or removal of an  
20          independent counsel, the division of the court shall  
21          appoint an independent counsel to complete the work  
22          of the independent counsel whose resignation, death,  
23          or removal caused the vacancy, except that in the  
24          case of a vacancy arising by reason of the removal  
25          of an independent counsel, the division of the court



1       may appoint an acting independent counsel to serve  
2       until any judicial review of such removal is com-  
3       pleted. If the independent counsel is removed, the di-  
4       vision of the court shall report on such removal to  
5       the appropriate Congressional committees not later  
6       than 3 days thereafter.

7               (5) ATTORNEY'S FEES.—

8               (A) AWARD OF FEES.—Upon the request  
9       of an individual who is the subject of an inves-  
10      tigation conducted by an independent counsel  
11      pursuant to this section, the division of the  
12      court may, if no indictment is brought against  
13      such individual pursuant to that investigation,  
14      award reimbursement for those reasonable at-  
15      torneys' fees incurred by that individual during  
16      that investigation which would not have been  
17      incurred but for the requirements of this Act.  
18      The division of the court shall notify the inde-  
19      pendent counsel who conducted the investiga-  
20      tion and the Attorney General of any request  
21      for attorneys' fees under this paragraph.

22              (B) EVALUATION OF FEES.—The division  
23      of the court shall direct such independent coun-  
24      sel and the Attorney General to file a written

1 evaluation of any request for attorneys' fees  
2 under this subsection, addressing—

3 (i) the sufficiency of the documenta-  
4 tion;

5 (ii) the need or justification for the  
6 attorneys' fees;

7 (iii) whether the attorneys' fees would  
8 have been incurred but for the require-  
9 ments of this section; and

10 (iv) the reasonableness of the amount  
11 of money requested.

12 (6) DISCLOSURE OF INFORMATION.—The divi-  
13 sion of the court may, subject to subsection  
14 (d)(8)(B), allow the disclosure of any notification,  
15 application, or any other document, material, or  
16 memorandum supplied to the division of the court  
17 under this section.

18 (7) AMICUS CURIAE BRIEFS.—When presented  
19 with significant legal issues, the division of the court  
20 may disclose sufficient information about the issues  
21 to permit the filing of timely amicus curiae briefs.

22 (d) AUTHORITIES AND DUTIES OF AN INDEPENDENT  
23 COUNSEL.—

24 (1) AUTHORITIES.—Notwithstanding any other  
25 provision of law, an independent counsel appointed

1 under this section shall have, with respect to all  
2 matters in such independent counsel's prosecutorial  
3 jurisdiction established under this section, full power  
4 and independent authority to exercise all investiga-  
5 tive and prosecutorial functions and powers of the  
6 Department of Justice, the Attorney General, and  
7 any other officer or employee of the Department of  
8 Justice, except that the Attorney General shall exer-  
9 cise direction or control as to those matters that spe-  
10 cifically require the Attorney General's personal ac-  
11 tion under section 2516 of title 18, United States  
12 Code. Such investigative and prosecutorial functions  
13 and powers shall include—

14 (A) conducting proceedings before grand  
15 juries and other investigations;

16 (B) participating in court proceedings and  
17 engaging in any litigation, including civil and  
18 criminal matters that such independent counsel  
19 considers necessary;

20 (C) appealing any decision of a court in  
21 any case or proceeding in which such inde-  
22 pendent counsel participates in an official ca-  
23 pacity;

24 (D) reviewing all documentary evidence  
25 available from any source;

1           (E) determining whether to contest the as-  
2           sertion of any testimonial privilege;

3           (F) receiving appropriate national security  
4           clearances and, if necessary, contesting in court  
5           (including, where appropriate, participating in  
6           camera proceedings) any claim of privilege or  
7           attempt to withhold evidence on grounds of na-  
8           tional security;

9           (G) making applications to any Federal  
10          court for a grant of immunity to any witness,  
11          consistent with applicable statutory require-  
12          ments, or for warrants, subpoenas, or other  
13          court orders, and, for purposes of sections  
14          6003, 6004, and 6005 of title 18, United States  
15          Code, exercising the authority vested in a  
16          United States attorney or the Attorney General;

17          (H) inspecting, obtaining, or using the  
18          original or a copy of any tax return, in accord-  
19          ance with the applicable statutes and regula-  
20          tions, and, for purposes of section 6103 of the  
21          Internal Revenue Code of 1986 and the regula-  
22          tions issued thereunder, exercising the powers  
23          vested in a United States attorney or the Attor-  
24          ney General;

1 (I) initiating and conducting prosecutions  
2 in any court of competent jurisdiction, framing  
3 and signing indictments, filing informations,  
4 and handling all aspects of any case, in the  
5 name of the United States; and

6 (J) consulting with the United States at-  
7 torney for the district in which any covered vio-  
8 lation was alleged to have occurred.

9 (2) COMPENSATION.—

10 (A) IN GENERAL.—An independent counsel  
11 appointed under this Act shall receive com-  
12 pensation at the per diem rate equal to the an-  
13 nual rate of basic pay payable for level IV of  
14 the Executive Schedule under section 5315 of  
15 title 5, United States Code.

16 (B) TRAVEL EXPENSES.—Except as pro-  
17 vided in subparagraph (C), an independent  
18 counsel and persons appointed under paragraph  
19 (3) shall be entitled to the payment of travel ex-  
20 penses as provided by subchapter I of chapter  
21 57 of title 5, United States Code, including  
22 travel, per diem, and subsistence expenses in  
23 accordance with section 5703 of such title 5.

24 (C) TRAVEL TO PRIMARY OFFICE.—

1                   (i) IN GENERAL.—After 1 year of  
2 service under this section, an independent  
3 counsel and persons appointed under para-  
4 graph (3) shall not be entitled to the pay-  
5 ment of travel, per diem, or subsistence ex-  
6 penses under subchapter I of chapter 57 of  
7 title 5, United States Code, for the pur-  
8 pose of commuting to or from the city in  
9 which the primary office of the inde-  
10 pendent counsel or person is located. The  
11 1-year period may be extended for succes-  
12 sive 6-month periods if the independent  
13 counsel and the division of the court certify  
14 that the payment is in the public interest  
15 to carry out the purposes of this section.

16                   (ii) RELEVANT FACTORS.—In making  
17 any certification under this subparagraph  
18 with respect to travel and subsistence ex-  
19 penses of an independent counsel or person  
20 appointed under paragraph (3), the inde-  
21 pendent counsel and the division of the  
22 court shall consider, among other relevant  
23 factors—

1 (I) the cost to the Government of  
2 reimbursing such travel and subsist-  
3 ence expenses;

4 (II) the period of time for which  
5 the independent counsel anticipates  
6 that the activities of the independent  
7 counsel or person, as the case may be,  
8 will continue;

9 (III) the personal and financial  
10 burdens on the independent counsel or  
11 person, as the case may be, of relo-  
12 cating so that such travel and subsist-  
13 ence expenses would not be incurred;  
14 and

15 (IV) the burdens associated with  
16 appointing a new independent counsel,  
17 or appointing another person under  
18 paragraph (3), to replace the indi-  
19 vidual involved who is unable or un-  
20 willing to so relocate.

21 (3) ADDITIONAL PERSONNEL.—For the pur-  
22 poses of carrying out the duties of an office of inde-  
23 pendent counsel, such independent counsel may ap-  
24 point, fix the compensation, and assign the duties of  
25 such employees as such independent counsel con-

1       siders necessary (including investigators, attorneys,  
2       and part-time consultants). The positions of all such  
3       employees are exempted from the competitive serv-  
4       ice. Such employees shall be compensated at levels  
5       not to exceed those payable for comparable positions  
6       in the Office of United States Attorney for the Dis-  
7       trict of Columbia under sections 548 and 550, but  
8       in no event shall any such employee be compensated  
9       at a rate greater than the rate of basic pay payable  
10      for level ES-4 of the Senior Executive Service  
11      Schedule under section 5382 of title 5, United  
12      States Code, as adjusted for the District of Colum-  
13      bia under section 5304 of that title regardless of the  
14      locality in which an employee is employed.

15           (4) ASSISTANCE OF DEPARTMENT OF JUSTICE.—  
16

17           (A) IN CARRYING OUT FUNCTIONS.—An  
18      independent counsel may request assistance  
19      from the Department of Justice in carrying out  
20      the functions of the independent counsel, and  
21      the Department of Justice shall provide that as-  
22      sistance, which may include access to any  
23      records, files, or other materials relevant to  
24      matters within such independent counsel's pros-  
25      ecutorial jurisdiction, and the use of the re-



1 sources and personnel necessary to perform  
2 such independent counsel's duties. At the re-  
3 quest of an independent counsel, prosecutors,  
4 administrative personnel, and other employees  
5 of the Department of Justice may be detailed to  
6 the staff of the independent counsel.

7 (B) PAYMENT OF AND REPORTS ON EX-  
8 PENDITURES OF INDEPENDENT COUNSEL.—  
9 The Department of Justice shall pay all costs  
10 relating to the establishment and operation of  
11 any office of independent counsel. The Attorney  
12 General shall submit to the Congress, not later  
13 than 30 days after the end of each fiscal year,  
14 a report on amounts paid during that fiscal  
15 year for expenses of investigations and prosecu-  
16 tions by independent counsel. Each such report  
17 shall include a statement of all payments made  
18 for activities of independent counsel but may  
19 not reveal the identity or prosecutorial jurisdic-  
20 tion of any independent counsel which has not  
21 been disclosed under subsection (c)(2)(D).

22 (5) REFERRAL OF OTHER MATTERS.—

23 (A) REFERRAL OF OTHER MATTERS TO AN  
24 INDEPENDENT COUNSEL.—An independent  
25 counsel may ask the Attorney General or the di-

1 vision of the court to refer to the independent  
2 counsel matters related to the independent  
3 counsel's prosecutorial jurisdiction, and the At-  
4 torney General or the division of the court, as  
5 the case may be, may refer such matters. If the  
6 Attorney General refers a matter to an inde-  
7 pendent counsel on the Attorney General's own  
8 initiative, the independent counsel may accept  
9 such referral if the matter relates to the inde-  
10 pendent counsel's prosecutorial jurisdiction. If  
11 the Attorney General refers any matter to the  
12 independent counsel pursuant to the inde-  
13 pendent counsel's request, or if the independent  
14 counsel accepts a referral made by the Attorney  
15 General on the Attorney General's own initia-  
16 tive, the independent counsel shall so notify the  
17 division of the court.

18 (B) REFERRAL OF OTHER MATTERS TO  
19 THE ATTORNEY GENERAL.—If an independent  
20 counsel appointed under this section finds a vio-  
21 lation of the law other than a covered violation,  
22 the independent counsel shall—

23 (i) refer the matter to the Attorney  
24 General;

- 1 (ii) refer the matter to any relevant  
2 state or local law enforcement official; and  
3 (iii) not later than 7 days after dis-  
4 covery of the violation, submit a report to  
5 Congress.

6 (6) COMPLIANCE WITH POLICIES OF THE DE-  
7 PARTMENT OF JUSTICE.—

8 (A) IN GENERAL.—An independent counsel  
9 shall, except to the extent that to do so would  
10 be inconsistent with the purposes of this sec-  
11 tion, comply with the written or other estab-  
12 lished policies of the Department of Justice re-  
13 specting enforcement of the criminal laws. To  
14 determine these policies and policies under  
15 paragraph (12)(A)(ii), the independent counsel  
16 shall, except to the extent that doing so would  
17 be inconsistent with the purposes of this sec-  
18 tion, consult with the Department of Justice.

19 (B) NATIONAL SECURITY.—An inde-  
20 pendent counsel shall comply with guidelines  
21 and procedures used by the Department in the  
22 handling and use of classified material.

23 (7) DISMISSAL OF MATTERS.—The independent  
24 counsel shall have full authority to dismiss matters  
25 within the independent counsel's prosecutorial juris-

1       diction without conducting an investigation or at any  
2       subsequent time before prosecution, if to do so  
3       would be consistent with the written or other estab-  
4       lished policies of the Department of Justice with re-  
5       spect to the enforcement of criminal laws. The inde-  
6       pendent counsel shall report, not later than 3 days  
7       thereafter, on any such dismissal, to the appropriate  
8       committees of Congress.

9               (8) REPORTS BY INDEPENDENT COUNSEL.—

10              (A) REQUIRED REPORTS.—An independent  
11       counsel shall—

12              (i) file with the division of the court,  
13       with respect to the 6-month period begin-  
14       ning on the date of that counsel's appoint-  
15       ment, and with respect to each 6-month  
16       period thereafter until the office of that  
17       independent counsel terminates, a report  
18       which identifies and explains major ex-  
19       penses, and summarizes all other expenses,  
20       incurred by that office during the 6-month  
21       period with respect to which the report is  
22       filed, and estimates future expenses of that  
23       office; and

24              (ii) before the termination of the inde-  
25       pendent counsel's office under subsection

1 (f)(2), file a final report with the division  
2 of the court, setting forth fully and com-  
3 pletely a description of the work of the  
4 independent counsel, including the disposi-  
5 tion of all cases brought.

6 (B) DISCLOSURE OF INFORMATION IN RE-  
7 PORTS.—The division of the court shall release  
8 to the Congress, and may release to the public,  
9 or any appropriate person, such portions of a  
10 report made under this paragraph as the divi-  
11 sion of the court considers appropriate. The di-  
12 vision of the court shall make such orders as  
13 are appropriate to protect the rights of any in-  
14 dividual named in such report and to prevent  
15 undue interference with any pending prosecu-  
16 tion. The division of the court may make any  
17 portion of a final report filed under subpara-  
18 graph (A)(ii) available to any individual named  
19 in such report for the purposes of receiving  
20 within a time limit set by the division of the  
21 court any comments or factual information that  
22 such individual may submit. Such comments  
23 and factual information, in whole or in part,  
24 may, in the discretion of the division of the

1 court, be included as an appendix to such final  
2 report.

3 (C) PUBLICATION OF REPORTS.—At the  
4 request of an independent counsel, the Director  
5 of the Government Publishing Office shall cause  
6 to be printed any report previously released to  
7 the public under subparagraph (B). The inde-  
8 pendent counsel shall certify the number of cop-  
9 ies necessary for the public, and the Director of  
10 the Government Publishing Office shall place  
11 the cost of the required number to the debit of  
12 such independent counsel. Additional copies  
13 shall be made available to the public through  
14 the depository library program and Super-  
15 intendent of Documents sales program pursu-  
16 ant to sections 1702 and 1903 of title 44,  
17 United States Code. Such report shall be con-  
18 sidered to be publicly available if it is available  
19 to the public online in an electronic searchable  
20 format.

21 (9) INDEPENDENCE FROM DEPARTMENT OF  
22 JUSTICE.—Each independent counsel appointed  
23 under this section, and the persons appointed by  
24 that independent counsel under paragraph (3), are  
25 separate from and independent of the Department of

1 Justice for purposes of sections 202 through 209 of  
2 title 18, United States Code.

3 (10) STANDARDS OF CONDUCT APPLICABLE TO  
4 INDEPENDENT COUNSEL, PERSONS SERVING IN THE  
5 OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR  
6 LAW FIRMS.—

7 (A) RESTRICTIONS ON EMPLOYMENT  
8 WHILE INDEPENDENT COUNSEL AND AP-  
9 POINTEES ARE SERVING.—

10 (i) During the period in which an  
11 independent counsel is serving under this  
12 section, such independent counsel and any  
13 person associated with a firm with which  
14 such independent counsel is associated may  
15 not represent in any matter any person in-  
16 volved in any investigation or prosecution  
17 under this section.

18 (ii) During the period in which any  
19 person appointed by an independent coun-  
20 sel under paragraph (3) is serving in the  
21 office of independent counsel, such person  
22 may not represent in any matter any per-  
23 son involved in any investigation or pros-  
24 ecution under this section.

1 (B) POST EMPLOYMENT RESTRICTIONS ON  
2 INDEPENDENT COUNSEL AND APPOINTEES.—

3 (i) Each independent counsel and  
4 each person appointed by that independent  
5 counsel under paragraph (3) may not, for  
6 3 years following the termination of the  
7 service under this section of that inde-  
8 pendent counsel or appointed person, as  
9 the case may be, represent any person in  
10 any matter if that individual was the sub-  
11 ject of an investigation or prosecution  
12 under this section that was conducted by  
13 that independent counsel.

14 (ii) Each independent counsel and  
15 each person appointed by that independent  
16 counsel under paragraph (3) may not, for  
17 1 year following the termination of the  
18 service under this section of that inde-  
19 pendent counsel or appointed person, as  
20 the case may be, represent any person in  
21 any matter involving any investigation or  
22 prosecution under this section.

23 (C) ONE-YEAR BAN ON REPRESENTATION  
24 BY MEMBERS OF FIRMS OF INDEPENDENT  
25 COUNSEL.—Any person who is associated with



1 a firm with which an independent counsel is as-  
2 sociated or becomes associated after termi-  
3 nation of the service of that independent coun-  
4 sel under this section may not, for 1 year fol-  
5 lowing such termination, represent any person  
6 in any matter involving any investigation or  
7 prosecution under this section.

8 (D) DEFINITIONS.—For purposes of this  
9 paragraph—

10 (i) the term “firm” means a law firm  
11 whether organized as a partnership or cor-  
12 poration; and

13 (ii) a person is “associated” with a  
14 firm if that person is an officer, director,  
15 partner, or other member or employee of  
16 that firm.

17 (E) ENFORCEMENT.—The Attorney Gen-  
18 eral and the Director of the Office of Govern-  
19 ment Ethics have authority to enforce compli-  
20 ance with this paragraph.

21 (11) CUSTODY OF RECORDS OF AN INDE-  
22 PENDENT COUNSEL.—

23 (A) TRANSFER OF RECORDS.—Upon ter-  
24 mination of the office of an independent coun-  
25 sel, that independent counsel shall transfer to

1 the Archivist of the United States all records  
2 which have been created or received by that of-  
3 fice. Before this transfer, the independent coun-  
4 sel shall clearly identify which of these records  
5 are subject to rule 6(e) of the Federal Rules of  
6 Criminal Procedure as grand jury materials and  
7 which of these records have been classified as  
8 national security information. Any records  
9 which were compiled by an independent counsel  
10 and, upon termination of the independent coun-  
11 sel's office, were stored with the division of the  
12 court or elsewhere before the date of enactment  
13 of this Act, shall also be transferred to the Ar-  
14 chivist of the United States by the division of  
15 the court or the person in possession of such  
16 records.

17 (B) MAINTENANCE, USE, AND DISPOSAL  
18 OF RECORDS.—Records transferred to the Ar-  
19 chivist under this section shall be maintained,  
20 used, and disposed of in accordance with chap-  
21 ters 21, 29, and 33 of title 44, United States  
22 Code.

23 (C) ACCESS TO RECORDS.—

24 (i) IN GENERAL.—Subject to subpara-  
25 graph (D), access to the records trans-

1           ferred to the Archivist under this section  
2           shall be governed by section 552 of title 5,  
3           United States Code.

4           (ii) ACCESS BY DEPARTMENT OF JUSTICE.—The Archivist shall, upon written  
5           application by the Attorney General, dis-  
6           close any such records to the Department  
7           of Justice for purposes of an ongoing law  
8           enforcement investigation or court pro-  
9           ceeding, except that, in the case of grand  
10          jury materials, such records shall be so dis-  
11          closed only by order of the court of juris-  
12          diction under rule 6(e) of the Federal  
13          Rules of Criminal Procedure.

14          (iii) EXCEPTION.—Notwithstanding  
15          any restriction on access imposed by law,  
16          the Archivist and persons employed by the  
17          National Archives and Records Adminis-  
18          tration who are engaged in the perform-  
19          ance of normal archival work shall be per-  
20          mitted access to the records transferred to  
21          the Archivist under this section.

22          (D) RECORDS PROVIDED BY CONGRESS.—  
23          Records of an investigation conducted by a  
24          committee of the House of Representatives or  
25

1 the Senate which are provided to an inde-  
2 pendent counsel to assist in an investigation or  
3 prosecution conducted by that independent  
4 counsel—

5 (i) shall be maintained as a separate  
6 body of records within the records of the  
7 independent counsel; and

8 (ii) shall, after the records have been  
9 transferred to the Archivist under this sec-  
10 tion, be made available, except as provided  
11 in subparagraph (C)(ii) and (iii), in ac-  
12 cordance with the rules governing release  
13 of the records of the House of Congress  
14 that provided the records to the inde-  
15 pendent counsel.

16 Clause (ii) shall not apply to those records  
17 which have been surrendered pursuant to grand  
18 jury or court proceedings.

19 (12) COST CONTROLS AND ADMINISTRATIVE  
20 SUPPORT.—

21 (A) COST CONTROLS.—

22 (i) IN GENERAL.—An independent  
23 counsel shall—

24 (I) conduct all activities with due  
25 regard for expense;

1 (II) authorize only reasonable  
2 and lawful expenditures; and

3 (III) promptly, upon taking of-  
4 fice, assign to a specific employee the  
5 duty of certifying that expenditures of  
6 the independent counsel are reason-  
7 able and made in accordance with law.

8 (ii) LIABILITY FOR INVALID CERTIFI-  
9 CATION.—An employee making a certifi-  
10 cation under clause (i)(III) shall be liable  
11 for an invalid certification to the same ex-  
12 tent as a certifying official certifying a  
13 voucher is liable under section 3528 of title  
14 31, United States Code.

15 (iii) DEPARTMENT OF JUSTICE POLI-  
16 CIES.—An independent counsel shall com-  
17 ply with the established policies of the De-  
18 partment of Justice respecting expendi-  
19 tures of funds, except to the extent that  
20 compliance would be inconsistent with the  
21 purposes of this section.

22 (B) ADMINISTRATIVE SUPPORT .—The Di-  
23 rector of the Administrative Office of the  
24 United States Courts shall provide administra-  
25 tive support and guidance to each independent

1           counsel. No officer or employee of the Adminis-  
2           trative Office of the United States Courts shall  
3           disclose information related to an independent  
4           counsel's expenditures, personnel, or adminis-  
5           trative acts or arrangements without the au-  
6           thorization of the independent counsel.

7           (C) OFFICE SPACE.—The Administrator of  
8           General Services, in consultation with the Di-  
9           rector of the Administrative Office of the  
10          United States Courts, shall promptly provide  
11          appropriate office space for each independent  
12          counsel. Such office space shall be within a  
13          Federal building unless the Administrator of  
14          General Services determines that other arrange-  
15          ments would cost less. Until such office space  
16          is provided, the Administrative Office of the  
17          United States Courts shall provide newly ap-  
18          pointed independent counsels immediately upon  
19          appointment with appropriate, temporary office  
20          space, equipment, and supplies.

21          (e) CONGRESSIONAL OVERSIGHT.—

22                  (1) OVERSIGHT OF CONDUCT OF INDEPENDENT  
23          COUNSEL.—

24                  (A) CONGRESSIONAL OVERSIGHT.—The  
25          appropriate committees of the Congress shall

1           have oversight jurisdiction with respect to the  
2           official conduct of any independent counsel ap-  
3           pointed under this section, and such inde-  
4           pendent counsel shall have the duty to cooper-  
5           ate with the exercise of such oversight jurisdic-  
6           tion.

7                   (B) REPORTS TO CONGRESS.—An inde-  
8           pendent counsel appointed under this section  
9           shall submit to the Congress annually a report  
10          on the activities of the independent counsel, in-  
11          cluding a description of the progress of any in-  
12          vestigation or prosecution conducted by the  
13          independent counsel. Such report may omit any  
14          matter that in the judgment of the independent  
15          counsel should be kept confidential, but shall  
16          provide information adequate to justify the ex-  
17          penditures that the office of the independent  
18          counsel has made.

19                   (2) OVERSIGHT OF CONDUCT OF ATTORNEY  
20          GENERAL.—Within 15 days after receiving an in-  
21          quiry about a particular case under this section,  
22          which is a matter of public knowledge, from a com-  
23          mittee of the Congress with jurisdiction over this  
24          section, the Attorney General shall provide the fol-

1       lowing information to that committee with respect to  
2       that case:

3               (A) When the information about the case  
4       was received.

5               (B) Whether a preliminary investigation is  
6       being conducted, and if so, the date it began.

7               (C) Whether an application for the ap-  
8       pointment of an independent counsel or a noti-  
9       fication that further investigation is not war-  
10      ranted has been filed with the division of the  
11      court, and if so, the date of such filing.

12              (3) INFORMATION RELATING TO IMPEACH-  
13      MENT.—An independent counsel shall advise the  
14      House of Representatives of any substantial and  
15      credible information which such independent counsel  
16      receives, in carrying out the independent counsel's  
17      responsibilities under this section, that may con-  
18      stitute grounds for an impeachment. Nothing in this  
19      section or section 49 of title 28, United States Code,  
20      shall prevent the Congress or either House thereof  
21      from obtaining information in the course of an im-  
22      peachment proceeding.

23              (f) REMOVAL OF AN INDEPENDENT COUNSEL; TER-  
24      MINATION OF OFFICE.—

25              (1) REMOVAL; REPORT ON REMOVAL.—



1           (A) GROUNDS FOR REMOVAL.—An inde-  
2           pendent counsel appointed under this section  
3           may be removed from office, other than by im-  
4           peachment and conviction, only by the personal  
5           action of the Attorney General and only for  
6           good cause, physical or mental disability (if not  
7           prohibited by law protecting persons from dis-  
8           crimination on the basis of such a disability), or  
9           any other condition that substantially impairs  
10          the performance of such independent counsel's  
11          duties.

12          (B) REPORT TO DIVISION OF THE COURT  
13          AND CONGRESS.—If an independent counsel is  
14          removed from office, the Attorney General shall  
15          promptly submit to the division of the court and  
16          the Committees on the Judiciary of the Senate  
17          and the House of Representatives a report  
18          specifying the facts found and the ultimate  
19          grounds for such removal. The committees shall  
20          make available to the public such report, except  
21          that each committee may, if necessary to pro-  
22          tect the rights of any individual named in the  
23          report or to prevent undue interference with  
24          any pending prosecution, postpone or refrain  
25          from publishing any or all of the report. The di-

1 vision of the court may release any or all of  
2 such report in accordance with subsection  
3 (d)(8)(B).

4 (C) JUDICIAL REVIEW OF REMOVAL.—An  
5 independent counsel removed from office may  
6 obtain judicial review of the removal in a civil  
7 action commenced in the United States District  
8 Court for the District of Columbia. A member  
9 of the division of the court may not hear or de-  
10 termine any such civil action or any appeal of  
11 a decision in any such civil action. The inde-  
12 pendent counsel may be reinstated or granted  
13 other appropriate relief by order of the court.

14 (2) TERMINATION OF OFFICE.—

15 (A) TERMINATION BY ACTION OF INDE-  
16 PENDENT COUNSEL.—An office of independent  
17 counsel shall terminate when—

18 (i) the independent counsel notifies  
19 the Attorney General that the investigation  
20 of all matters within the prosecutorial ju-  
21 risdiction of such independent counsel or  
22 accepted by such independent counsel  
23 under subsection (d)(5), and any resulting  
24 prosecutions, have been completed or so  
25 substantially completed that it would be

1           appropriate for the Department of Justice  
2           to complete such investigations and pros-  
3           ecutions; and

4                   (ii) the independent counsel files a  
5           final report in compliance with subsection  
6           (d)(8)(A)(ii).

7           (B) TERMINATION BY DIVISION OF THE  
8           COURT.—The division of the court, either on its  
9           own motion or upon the request of the Attorney  
10          General, may terminate an office of inde-  
11          pendent counsel at any time, on the ground  
12          that the investigation of all matters within the  
13          prosecutorial jurisdiction of such independent  
14          counsel or accepted by such independent coun-  
15          sel under subsection (d)(5), and any resulting  
16          prosecutions, have been completed or so sub-  
17          stantially completed that it would be appro-  
18          priate for the Department of Justice to com-  
19          plete such investigations and prosecutions. At  
20          the time of such termination, the independent  
21          counsel shall file the final report required by  
22          subsection (d)(8)(A)(ii). If the Attorney General  
23          has not made a request under this subpara-  
24          graph, the division of the court shall determine  
25          on its own motion whether termination is ap-

1           appropriate under this paragraph no later than 2  
2           years after the appointment of an independent  
3           counsel, at the end of the succeeding 2-year pe-  
4           riod, and thereafter at the end of each suc-  
5           ceeding 1-year period.

6           (3) AUDITS.—

7                   (A) On or before June 30 of each year, an  
8           independent counsel shall prepare a statement  
9           of expenditures for the 6 months that ended on  
10          the immediately preceding March 31. On or be-  
11          fore December 31 of each year, an independent  
12          counsel shall prepare a statement of expendi-  
13          tures for the fiscal year that ended on the im-  
14          mediately preceding September 30. An inde-  
15          pendent counsel whose office is terminated prior  
16          to the end of the fiscal year shall prepare a  
17          statement of expenditures on or before the date  
18          that is 90 days after the date on which the of-  
19          fice is terminated.

20                   (B) The Comptroller General of the United  
21          States shall—

22                           (i) conduct a financial review of a  
23                           mid-year statement and a financial audit  
24                           of a year-end statement and statement on  
25                           termination; and

1                   (ii) report the results to the Com-  
2                   mittee on the Judiciary, Committee on  
3                   Homeland Security and Governmental Af-  
4                   fairs, and Committee on Appropriations of  
5                   the Senate and the Committee on the Ju-  
6                   diciary, Committee on Oversight, and Com-  
7                   mittee on Appropriations of the House of  
8                   Representatives not later than 90 days fol-  
9                   lowing the submission of each such state-  
10                  ment.

11           (g) RELATIONSHIP WITH DEPARTMENT OF JUS-  
12   TICE.—

13           (1) SUSPENSION OF OTHER INVESTIGATIONS  
14   AND PROCEEDINGS.—Whenever a matter is in the  
15   prosecutorial jurisdiction of an independent counsel  
16   or has been accepted by an independent counsel  
17   under subsection (d)(5), the Department of Justice,  
18   the Attorney General, and all other officers and em-  
19   ployees of the Department of Justice shall suspend  
20   all investigations and proceedings regarding such  
21   matter, except to the extent required by subsection  
22   (d)(4)(A), and except insofar as such independent  
23   counsel agrees in writing that such investigation or  
24   proceedings may be continued by the Department of  
25   Justice.

1           (2) PRESENTATION AS AMICUS CURIAE PER-  
2           MITTED.—Nothing in this section shall prevent the  
3           Attorney General or the Solicitor General from mak-  
4           ing a presentation as amicus curiae to any court as  
5           to issues of law raised by any case or proceeding in  
6           which an independent counsel participates in an offi-  
7           cial capacity or any appeal of such a case or pro-  
8           ceeding.

9           (h) SEVERABILITY.—If any provision of this section  
10          or the application thereof to any person or circumstance  
11          is held invalid, the remainder of this section and the appli-  
12          cation of such provision to other persons not similarly situ-  
13          ated or to other circumstances shall not be affected by  
14          such invalidation.

15          (i) TERMINATION OF EFFECT OF SECTION.—This  
16          section shall cease to be effective five years after the date  
17          of enactment of this Act, except that this section shall con-  
18          tinue in effect with respect to then pending matters before  
19          an independent counsel that in the judgment of such coun-  
20          sel require such continuation until that independent coun-  
21          sel determines such matters have been completed.

22       **SEC. 3. INSPECTOR GENERAL FOR THE OFFICE OF SPECIAL**  
23                               **COUNSEL.**

24          (a) ESTABLISHMENT.—Section 12 of the Inspector  
25          General Act of 1978 (5 U.S.C. App.) is amended—

1           (1) in paragraph (1), by striking “or the Direc-  
2           tor of the National Reconnaissance Office” and in-  
3           serting “the Director of the National Reconnaiss-  
4           sance Office; or the Special Counsel”; and

5           (2) in paragraph (2), by striking “or the Na-  
6           tional Reconnaissance Office” and inserting “the  
7           National Reconnaissance Office, or the Office of  
8           Special Counsel”.

9           (b) APPOINTMENT OF INSPECTOR GENERAL.—Not  
10          later than 120 days after the date of the enactment of  
11          this Act, the President shall appoint an individual as the  
12          Inspector General of the Office of Special Counsel in ac-  
13          cordance with the requirements of section 3(a) of the In-  
14          spector General Act of 1978 (5 U.S.C. App.).

15          (c) REMOVAL FOR CAUSE ONLY.—The Inspector  
16          General of the Office of Special Counsel may only be re-  
17          moved by the President for cause.

18          **SEC. 4. STRENGTHENING THE HATCH ACT.**

19          (a) PRESENTMENT OF HATCH ACT VIOLATIONS TO  
20          MSPB.—Section 1215 of title 5, United States Code, is  
21          amended—

22                 (1) by striking “(b) In” and inserting “(b)(1)  
23                 In”; and

24                 (2) by adding at the end the following:

1           “(2) Paragraph (1) shall not apply to any determina-  
2 tion by the Special Counsel with respect to a violation of  
3 subchapter III of chapter 73 (commonly referred to as the  
4 ‘Hatch Act’). Any complaint and statement referred to in  
5 subsection (a)(1), together with any response of the em-  
6 ployee, regarding such a violation shall be presented to  
7 the Merit Systems Protection Board in accordance with  
8 subsection (a). This paragraph applies notwithstanding  
9 any other provision of law governing the employment or  
10 compensation of employees or officials in the White House  
11 Office.”.

12           (b) DISCLOSURE OF HATCH ACT INVESTIGATIONS  
13 FOR CERTAIN POLITICAL EMPLOYEES.—Section 1216 of  
14 title 5, United States Code, is amended by adding at the  
15 end the following:

16           “(d) With respect to any investigation of an allega-  
17 tion of prohibited activity under subsection (a)(1) against  
18 a political employee, the Special Counsel shall publish, on  
19 the Office of Special Counsel’s website, the Special Coun-  
20 sel’s final determination under such investigation with re-  
21 spect to whether a violation occurred. In this subsection,  
22 the term ‘political employee’ means any individual occu-  
23 pying any of the following positions in the executive  
24 branch of Government (including an individual carrying



1 out the duties of a position described in paragraph (1)  
2 in an acting capacity):

3 “(1) Any position required to be filled by an ap-  
4 pointment by the President by and with the advice  
5 and consent of the Senate.

6 “(2) Any position in the executive branch of the  
7 Government of a confidential or policy-determining  
8 character under schedule C of subpart C of part 213  
9 of title 5, Code of Federal Regulations.

10 “(3) Any position in or under the Executive Of-  
11 fice of the President.”.

12 (c) CLARIFICATION ON CANDIDATES VISITING FED-  
13 ERAL PROPERTY.—

14 (1) IN GENERAL.—Section 7323 of title 5,  
15 United States Code, is amended by adding at the  
16 end the following:

17 “(d) Nothing in this section or section 7324 shall be  
18 construed to prohibit an employee from allowing a Mem-  
19 ber of Congress or any other elected official from visiting  
20 Federal facilities for an official purpose, including receiv-  
21 ing briefings, tours, or other official information.”.

22 (2) TECHNICAL AND CONFORMING AMEND-  
23 MENTS.—Such section 7323 is further amended—

24 (A) in subsection (a)(1), by striking “his”  
25 and inserting “the employee’s”; and

1 (B) in subsection (c)—

2 (i) by striking “he” and inserting “the  
3 employee”; and

4 (ii) by striking “his” and inserting  
5 “the employee’s”.

6 (d) ELIMINATION OF EXCEPTION FOR POLITICAL AP-  
7 POINTEES.—Section 7324 of title 5, United States Code,  
8 is amended—

9 (1) by striking “(a) An employee” and inserting  
10 “An employee”; and

11 (2) by striking subsection (b).

12 (e) APPLYING HATCH ACT TO PRESIDENT AND VICE  
13 PRESIDENT WHILE ON FEDERAL PROPERTY.—

14 (1) IN GENERAL.—Subchapter III of chapter  
15 73 of title 5, United States Code, is amended by re-  
16 designating section 7326 as section 7327 and by in-  
17 serting after section 7325 the following:

18 **“§ 7326. Limitations on political activity of President**  
19 **and Vice President while on Federal**  
20 **property**

21 “Notwithstanding section 7322(1), the prohibitions  
22 on political activity under section 7323(a) and section  
23 7324 shall apply to the President and Vice President while  
24 the President and Vice President are on Federal property.

25 In this section, the term ‘Federal property’ includes any

1 vehicle, building, or land owned or leased by the Federal  
2 Government, including the White House and White House  
3 grounds (including the Executive Residence and the Rose  
4 Garden).”.

5 (2) CLERICAL AMENDMENT.—The table of sec-  
6 tions of such subchapter is amended by striking the  
7 item relating to section 7326 and inserting the fol-  
8 lowing:

“7326. Limitations on political activity of President and Vice President while  
on Federal property.

“7327. Penalties.”.

9 (f) CRIMINAL PENALTY.—

10 (1) IN GENERAL.—Subchapter III of chapter  
11 73 of title 5, United States Code, as amended by  
12 subsection (e)(1), is further amended by adding  
13 after section 7327 the following:

14 **“§ 7328. Criminal penalty for Hatch Act violations**

15 “(a) IN GENERAL.—Any person who knowingly vio-  
16 lates section 7323 or 7324 shall be fined \$5,000 (notwith-  
17 standing section 3571(e) of title 18), or imprisoned for  
18 not more than 5 years, or both. Notwithstanding section  
19 3571(e) of title 18, for each violation after the first, the  
20 fine applicable under this section shall be double the  
21 amount of the fine assessed for the previous violation.

22 “(b) ATTORNEY FEES.—A court may assess against  
23 the United States reasonable attorney fees and other liti-  
24 gation costs reasonably incurred in any case under this

1 section in which an employee has established, by a prepon-  
2 derance of the evidence, that a superior ordered or other-  
3 wise coerced the employee into taking any act that re-  
4 sulted in a violation of such section 7323 or 7324.”.

5 (2) CLERICAL AMENDMENT.—The table of sec-  
6 tions of such subchapter, as amended by subsection  
7 (e)(2), is further amended by inserting after the  
8 item relating to section 7327 the following:

“7328. Criminal penalty for Hatch Act violations.”.

9 (3) TRAINING.—After an individual’s first viola-  
10 tion of section 7323 or 7324 of title 5, United  
11 States Code, such individual shall be provided train-  
12 ing by the employing agency on how to avoid subse-  
13 quent violations of either such section.

14 **SEC. 5. GAO REVIEW OF REIMBURSABLE POLITICAL**  
15 **EVENTS.**

16 Not later than 60 days after the date of enactment  
17 of this Act, the Comptroller General of the United States  
18 shall submit to Congress a report on reimbursable political  
19 events held at the White House or on the White House  
20 grounds during the period beginning on January 1, 1997,  
21 and ending on the date of enactment of this Act. Such  
22 report shall include the following:

23 (1) Whether, during such period, the require-  
24 ments in annual appropriations Acts with respect to  
25 reimbursable political events have been followed, in-

1 including the requirements under the heading “Execu-  
2 tive Residence At the White House—Reimbursable  
3 Expenses” in division D of Public Law 116–6.

4 (2) An assessment of what constitutes a polit-  
5 ical event during such period.

6 (3) Whether an event that was not classified as  
7 a political event during such period should have been  
8 classified as such an event.

9 (4) A review of any payment made by a political  
10 entity under the terms of such requirements.

11 (5) Recommendations for Congress on—

12 (A) a definition for the term “political  
13 event”; and

14 (B) how to assess whether administrations  
15 are following such requirements and how to  
16 hold administrations accountable if such re-  
17 quirements are not followed.