

106TH CONGRESS
1ST SESSION

H. R. 3005

To establish an Independent Counsel Commission.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 1999

Mr. CAMPBELL introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To establish an Independent Counsel Commission.

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 Commission Act”.

6 **SEC. 2. INDEPENDENT COUNSEL COMMISSION.**

7 (a) ESTABLISHMENT.—

8 (1) MEMBERSHIP.—There is established a com-
9 mission to be known as the Independent Counsel
10 Commission (hereinafter in this Act referred to as
11 the “Commission”). The Commission shall be com-
12 posed of 5 members appointed as follows:

1 (A) One member shall be appointed by the
2 Speaker of the House of Representatives.

3 (B) One member shall be appointed by the
4 Minority Leader of the House of Representa-
5 tives.

6 (C) One member shall be appointed by the
7 Majority Leader of the Senate.

8 (D) One member shall be appointed by the
9 Minority Leader of the Senate.

10 (E) One member shall be an individual ap-
11 pointed by a majority of the other 4 members.

12 (2) MEMBER QUALIFICATION.—Members shall
13 be chosen on the basis of their experience, integrity,
14 impartiality, and good judgment and members shall
15 be individuals who, at the time appointed to the
16 Commission, are not elected or appointed officers or
17 employees in the executive, legislative, or judicial
18 branch of the Federal Government. During a period
19 in which a member of the Commission is serving on
20 the Commission, that member may not represent in
21 any matter any person involved in any investigation
22 of the Commission.

23 (3) TERMS.—Members of the Commission shall
24 serve for a single term of 6 years, except that of the
25 members first appointed—

1 (A) 2 of the members, randomly selected,
2 shall be appointed for terms of 2 years; and

3 (B) 2 of the members, randomly selected,
4 shall be appointed for terms of 4 years.

5 (4) VACANCIES.—

6 (A) SERVICE.—A member of the Commis-
7 sion may serve on the Commission after the ex-
8 piration of the member's term until the suc-
9 ceeding member has taken office as a member
10 of the Commission. An individual appointed to
11 fill a vacancy occurring other than by the expi-
12 ration of a term of office shall be appointed
13 only for the unexpired term of the member the
14 appointed member succeeds.

15 (B) VACANCY FILLING.—Any vacancy oc-
16 ccurring in the membership of the Commission
17 shall be filled in the same manner as in the
18 case of the original appointment.

19 (5) COMPENSATION.—Members of the Commis-
20 sion shall, for time spent engaged in the business of
21 the Commission, receive compensation equivalent to
22 the compensation paid at level IV of the Executive
23 Schedule (section 5315 of title 5, United States
24 Code).

1 (6) CHAIRMAN AND VICE CHAIRMAN.—The
2 Commission shall elect a chairman and a vice chair-
3 man from among its members for a term of one
4 year. A member may serve as chairman only once
5 during any term of office to which such member is
6 appointed. The vice chairman shall act as chairman
7 in the absence or disability of the chairman or in the
8 event of a vacancy in such office.

9 (b) VOTING REQUIREMENTS; DELEGATION OF AU-
10 THORITIES.—All decisions of the Commission with respect
11 to the exercise of its duties and powers under the provi-
12 sions of this Act shall be made by a majority vote of the
13 members of the Commission. A member of the Commis-
14 sion may not delegate to any person the member's vote
15 or any decision making authority or duty vested in the
16 Commission by this Act.

17 (c) RULES FOR CONDUCT OF ACTIVITIES; JUDICIAL
18 NOTICE OF SEAL; PRINCIPAL OFFICE.—The Commission
19 shall prepare written rules for the conduct of its activities,
20 shall have an official seal which shall be judicially noticed,
21 and shall have its principal office in or near the District
22 of Columbia (but it may meet or exercise any of its powers
23 anywhere in the United States).

24 (d) STAFF.—

1 (1) IN GENERAL.—The Commission shall have
2 a staff director and a general counsel who shall be
3 appointed by the Commission. The staff director
4 shall be paid at a rate not to exceed the rate of basic
5 pay in effect for level IV of the Executive Schedule
6 (5 U.S.C. 5315). The general counsel shall be paid
7 at a rate not to exceed the rate of basic pay in effect
8 for level V of the Executive Schedule (5 U.S.C.
9 5316). With the approval of the Commission, the
10 staff director may appoint and fix the pay of such
11 additional personnel as the staff director considers
12 desirable without regard to the provisions of title 5,
13 United States Code, governing appointments in the
14 competitive service.

15 (2) INTERMITTENT SERVICES.—With the ap-
16 proval of the Commission, the staff director may
17 procure temporary and intermittent services to the
18 same extent as is authorized by section 3109(b) of
19 title 5, United States Code, but at rates for individ-
20 uals not to exceed the daily equivalent of the annual
21 rate of basic pay in effect for grade GS-15 of the
22 General Schedule (5 U.S.C. 5332).

23 (e) SERVICES AND FACILITIES OF OTHER AGEN-
24 CIES.—

1 (1) IN GENERAL.—In carrying out its respon-
2 sibilities under this Act, the Commission shall, to
3 the fullest extent practicable, avail itself of the as-
4 sistance, including personnel and facilities of other
5 agencies and departments of the United States. The
6 heads of such agencies and departments may make
7 available to the Commission such personnel, facili-
8 ties, and other assistance, with or without reim-
9 bursement, as the Commission may request.

10 (2) ADMINISTRATIVE SUPPORT.—The Director
11 of the Administrative Office of the United States
12 Courts shall provide administrative support and
13 guidance to the Commission. No officer or employee
14 of the Administrative Office of the United States
15 Courts shall disclose information related to the Com-
16 mission's expenditures, personnel, or administrative
17 acts or arrangements without the authorization of
18 the Commission.

19 (3) OFFICE SPACE.—The Administrator of Gen-
20 eral Services, in consultation with the Director of
21 the Administrative Office of the United States
22 Courts, shall promptly provide appropriate office
23 space for the Commission. Such office space shall be
24 within a Federal building unless the Administrator
25 of General Services determines that other arrange-

1 ments would cost less. Until such office space is pro-
2 vided, the Administrative Office of the United States
3 Courts shall provide the Commission with appro-
4 priate, temporary office space, equipment, and sup-
5 plies.

6 (f) MEETINGS.—During the pendency of any inves-
7 tigation, the Commission shall meet at least once each
8 month and also at the call of any member.

9 **SEC. 3. DUTIES OF COMMISSION.**

10 (a) PRELIMINARY INVESTIGATION WITH RESPECT
11 TO CERTAIN COVERED PERSONS.—The Commission shall
12 conduct a preliminary investigation in accordance with
13 section 4 whenever the Commission receives information
14 sufficient to constitute grounds to investigate whether any
15 person described in subsection (b) may have violated any
16 Federal criminal law other than a violation classified as
17 a Class B or C misdemeanor or an infraction. Such infor-
18 mation shall be information sent to the Commission in a
19 letter signed by at least 100 members of the House of
20 Representatives or 20 members of the Senate.

21 (b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—
22 The persons referred to in subsection (a) are—

- 23 (1) the President and Vice President;
24 (2) any individual serving in a position listed in
25 section 5312 of title 5, United States Code;

1 (3) any individual working in the Executive Of-
2 fice of the President who is compensated at a rate
3 of pay at or above level II of the Executive Schedule
4 under section 5313 of title 5, United States Code;

5 (4) any Assistant Attorney General and any in-
6 dividual working in the Department of Justice who
7 is compensated at a rate of pay at or above level III
8 of the Executive Schedule under section 5314 of title
9 5, United States Code;

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

13 (6) the chairman and treasurer of the principal
14 national campaign committee seeking the election or
15 reelection of the President, and any officer of that
16 committee exercising authority at the national level,
17 during the incumbency of the President; and

18 (7) any individual who held an office or position
19 described in paragraph (1), (2), (3), (4), or (5) for
20 1 year after leaving the office or position.

21 (c) PRELIMINARY INVESTIGATION WITH RESPECT TO
22 OTHER PERSONS.—

23 (1) IN GENERAL.—When the Commission deter-
24 mines that an investigation or prosecution of a per-
25 son by the Department of Justice may result in a

1 personal, financial, or political conflict of interest,
2 the Commission may conduct a preliminary inves-
3 tigation of such person in accordance with section
4 592 if the Commission receives information suffi-
5 cient to constitute grounds to investigate whether
6 that person may have violated Federal criminal law
7 other than a violation classified as a Class B or C
8 misdemeanor or an infraction.

9 (2) MEMBERS OF CONGRESS.—When the Com-
10 mission determines that it would be in the public in-
11 terest, the Commission may conduct a preliminary
12 investigation in accordance with section 4 if the
13 Commission receives information sufficient to con-
14 stitute grounds to investigate whether a Member of
15 Congress may have violated any Federal criminal
16 law other than a violation classified as a Class B or
17 C misdemeanor or an infraction.

18 (d) EXAMINATION OF INFORMATION TO DETERMINE
19 NEED FOR PRELIMINARY INVESTIGATION.—

20 (1) FACTORS TO BE CONSIDERED.—In deter-
21 mining under subsection (a) or (c) (or section 4(b))
22 whether grounds to investigate exist, the Commis-
23 sion shall consider only—

24 (A) the specificity of the information re-
25 ceived; and

1 (B) the credibility of the source of the in-
2 formation.

3 (2) TIME PERIOD FOR MAKING DETERMINA-
4 TION.—The Commission shall determine whether
5 grounds to investigate exist not later than 30 days
6 after the information is first received. If within that
7 30-day period the Commission determines that the
8 information is not specific or is not from a credible
9 source, then the Commission shall close the matter.
10 If within that 30-day period the Commission deter-
11 mines that the information is specific and from a
12 credible source, the Commission shall, upon making
13 that determination, commence a preliminary inves-
14 tigation with respect to that information. If the
15 Commission is unable to determine, within that 30-
16 day period, whether the information is specific and
17 from a credible source, the Commission shall, at the
18 end of that 30-day period, commence a preliminary
19 investigation with respect to that information.

20 **SEC. 4. PRELIMINARY INVESTIGATION.**

21 (a) CONDUCT OF PRELIMINARY INVESTIGATION.—

22 (1) IN GENERAL.—A preliminary investigation
23 conducted under this section shall be of such mat-
24 ters as the Commission considers appropriate in
25 order to make a determination on whether further

1 investigation is warranted, with respect to each po-
2 tential violation, or allegation of a violation, of crimi-
3 nal law. The Commission shall make such deter-
4 mination not later than 90 days after the prelimi-
5 nary investigation is commenced, except that, in the
6 case of a preliminary investigation commenced after
7 a congressional request under subsection (d), the
8 Commission shall make such determination not later
9 than 90 days after the request is received.

10 (2) LIMITED AUTHORITY OF COMMISSION.—

11 (A) IN CONDUCTING PRELIMINARY INVES-
12 TIGATIONS.—In conducting preliminary inves-
13 tigations under this section, the Commission
14 shall have no authority to convene grand juries,
15 plea bargain, grant immunity, or issue sub-
16 poenas.

17 (B) BASIS OF COMMISSION DETERMINA-
18 TION.—The Commission shall not base a deter-
19 mination under this section that information
20 with respect to a violation of criminal law by a
21 person is not specific and from a credible
22 source, or that there are no reasonable grounds
23 to believe that further investigation is war-
24 ranted, upon a determination that such person

1 lacked the state of mind required for the viola-
2 tion of criminal law.

3 (3) EXTENSION OF TIME FOR PRELIMINARY IN-
4 VESTIGATION.—The Commission may extend a pre-
5 liminary investigation for a period of not more than
6 60 days, of the 90-day period referred to in para-
7 graph (1).

8 (b) DETERMINATION THAT FURTHER INVESTIGA-
9 TION IS WARRANTED.—If, after extending the time for
10 preliminary investigation under subsection (a)(3), the
11 Commission receives additional information sufficient to
12 constitute grounds to investigate the matters to which
13 such extension related, the Commission shall—

14 (1) conduct such additional preliminary inves-
15 tigation as the Commission considers appropriate for
16 a period of not more than 90 days after the date on
17 which such additional information is received; and

18 (2) otherwise comply with the provisions of this
19 section with respect to such additional preliminary
20 investigation to the same extent as any other pre-
21 liminary investigation under this section.

22 (c) DISCLOSURE OF INFORMATION.—Except as oth-
23 erwise provided in this section or upon lawful subpoena
24 for law enforcement purposes, no officer or employee of
25 the Commission may disclose to any individual outside the

1 Commission any notification, application, or any other
2 document, materials, or memorandum supplied to the
3 Commission under this section.

4 **SEC. 5. INVESTIGATION.**

5 Upon completion of any preliminary investigation
6 made with respect to a matter before the Commission
7 under subsection (a) or (c) of section 3, the Commission
8 may conduct a succeeding investigation to determine if a
9 violation of a Federal criminal law has occurred. Such in-
10 vestigation may not extend beyond 6 months from the date
11 the matter was first brought to the Commission under
12 such subsection unless, upon application by the Commis-
13 sion for an extension, the House of Representatives and
14 the Senate adopt a concurrent resolution authorizing the
15 Commission to extend the period of the investigation.

16 **SEC. 6. AUTHORITIES.**

17 (a) IN GENERAL.—The Commission shall have, with
18 respect to all matters in the Commission’s investigative
19 jurisdiction established under this Act, full power and
20 independent authority to exercise all investigative func-
21 tions and powers of the Department of Justice, the Attor-
22 ney General, and any other officer or employee of the De-
23 partment of Justice, except that the Attorney General
24 shall exercise direction or control as to those matters that
25 specifically require the Attorney General’s personal action

1 under section 2516 of title 18. Such investigative func-
2 tions and powers shall include—

3 (1) requiring by special or general orders, any
4 person to submit, under oath, such written reports
5 and answers to questions as the Commission may
6 prescribe;

7 (2) administering oaths or affirmations;

8 (3) requiring by subpoena approved by a vote of
9 the Commission, the attendance and testimony of
10 witnesses and the production of all documentary evi-
11 dence relating to the execution of its duties;

12 (4) in any proceeding or investigation, ordering
13 testimony to be taken by deposition before any per-
14 son who is designated by the Commission and has
15 the power to administer oaths and, in such in-
16 stances, compelling testimony and the production of
17 evidence in the same manner as authorized under
18 paragraph (3);

19 (5) paying witnesses the same fees and mileages
20 as are paid in like circumstances in the courts of the
21 United States;

22 (6) developing such prescribed forms and mak-
23 ing, amending, and repealing such rules, pursuant to
24 the provisions of chapter 5 of title 5, United States
25 Code, as are necessary to carry out the provisions of

1 this Act and chapter 95 and chapter 96 of the Inter-
2 nal Revenue Code of 1986; and

3 (7) conducting investigations and hearings ex-
4 peditiously, to encourage voluntary compliance, and
5 reporting apparent violations to the appropriate law
6 enforcement authorities.

7 (8) reviewing all documentary evidence available
8 from any source;

9 (9) determining whether to contest the asser-
10 tion of any testimonial privilege;

11 (10) receiving appropriate national security
12 clearances and, if necessary, contesting in court (in-
13 cluding, where appropriate, participating in camera
14 proceedings) any claim of privilege or attempt to
15 withhold evidence on grounds of national security;

16 (11) making applications to any Federal court
17 for a grant of immunity to any witness, consistent
18 with applicable statutory requirements, or for war-
19 rants, subpoenas, or other court orders, and, for
20 purposes of sections 6003, 6004, and 6005 of title
21 18, exercising the authority vested in a United
22 States attorney or the Attorney General; and

23 (12) inspecting, obtaining, or using the original
24 or a copy of any tax return, in accordance with the
25 applicable statutes and regulations, and, for pur-

1 poses of section 6103 of the Internal Revenue Code
2 of 1986 and the regulations issued thereunder, exer-
3 cising the powers vested in a United States attorney
4 or the Attorney General;

5 (b) JUDICIAL ORDERS FOR COMPLIANCE WITH SUB-
6 POENAS AND ORDERS OF COMMISSION; CONTEMPT OF
7 COURT.—Upon petition by the Commission, any United
8 States district court within the jurisdiction of which any
9 inquiry is being carried on may, in case of refusal to obey
10 a subpoena or order of the Commission issued under sub-
11 section (a), issue an order requiring compliance. Any fail-
12 ure to obey the order of the court may be punished by
13 the court as a contempt thereof.

14 (c) ASSISTANCE OF DEPARTMENT OF JUSTICE.—The
15 Commission may request assistance from the Department
16 of Justice in carrying out the functions of the Commission,
17 and the Department of Justice shall provide that assist-
18 ance, which may include access to any records, files, or
19 other materials relevant to matters within such Commis-
20 sion's jurisdiction, and the use of the resources and per-
21 sonnel necessary to perform the Commission's duties. At
22 the request of the Commission administrative personnel
23 and other employees of the Department of Justice may
24 be detailed to the staff of the Commission.

1 (d) NATIONAL SECURITY.—The Commission shall
2 comply with guidelines and procedures used by the De-
3 partment of Justice in the handling and use of classified
4 material.

5 (e) CUSTODY OF RECORDS OF THE COMMISSION.—

6 (1) TRANSFER OF RECORDS.—Upon termi-
7 nation of an investigation of the Commission, the
8 Commission shall transfer to the Archivist of the
9 United States all records which have been created or
10 received by the Commission. Before this transfer,
11 the Commission shall clearly identify which of these
12 records are subject to rule 6(e) of the Federal Rules
13 of Criminal Procedure as grand jury materials and
14 which of these records have been classified as na-
15 tional security information.

16 (2) MAINTENANCE, USE, AND DISPOSAL OF
17 RECORDS.—Records transferred to the Archivist
18 under paragraph (1) shall be maintained, used, and
19 disposed of in accordance with chapters 21, 29, and
20 33 of title 44.

21 (3) ACCESS TO RECORDS.—

22 (A) IN GENERAL.—Subject to paragraph
23 (4), access to the records transferred to the Ar-
24 chivist under paragraph (1) shall be governed
25 by section 552 of title 5, United States Code.

1 (B) ACCESS BY DEPARTMENT OF JUS-
2 TICE.—The Archivist shall, upon written appli-
3 cation by the Attorney General, disclose any
4 such records to the Department of Justice for
5 purposes of an ongoing law enforcement inves-
6 tigation or court proceeding, except that, in the
7 case of grand jury materials, such records shall
8 be so disclosed only by order of the court of ju-
9 risdiction under rule 6(e) of the Federal Rules
10 of Criminal Procedure.

11 (C) EXCEPTION.—Notwithstanding any re-
12 striction on access imposed by law, the Archi-
13 vist and persons employed by the National Ar-
14 chives and Records Administration who are en-
15 gaged in the performance of normal archival
16 work shall be permitted access to the records
17 transferred to the Archivist under paragraph
18 (1).

19 (4) RECORDS PROVIDED BY CONGRESS.—
20 Records of an investigation conducted by a com-
21 mittee of the House of Representatives or the Senate
22 which are provided to the Commission to assist in an
23 investigation conducted by the Commission—

1 (A) shall be maintained as a separate body
2 of records within the records of the Commis-
3 sion: and

4 (B) shall, after the records have been
5 transferred to the Archivist under paragraph
6 (1), be made available, except as provided in
7 subparagraphs (B) and (C) of paragraph (3), in
8 accordance with the rules governing release of
9 the records of the House of Congress that pro-
10 vided the records to the Commission.

11 (f) COST CONTROLS.—

12 (1) COST CONTROLS.—The Commission shall—

13 (A) conduct all activities with due regard
14 for expense;

15 (B) authorize only reasonable and lawful
16 expenditures; and

17 (C) promptly assign to a specific employee
18 the duty of certifying that expenditures of the
19 Commission are reasonable and made in accord-
20 ance with law.

21 (2) DEPARTMENT OF JUSTICE POLICIES.—The
22 Commission shall comply with the established poli-
23 cies of the Department of Justice respecting expend-
24 itures of funds, except to the extent that compliance
25 would be inconsistent with the purposes of this Act.

1 (g) CIVIL LIABILITY FOR DISCLOSURE OF INFORMA-
2 TION.—No person shall be subject to civil liability to any
3 person (other than the Commission or the United States)
4 for disclosing information at the request of the Commis-
5 sion.

6 **SEC. 7. REPORT OF THE COMMISSION.**

7 (a) IN GENERAL.—Upon completion of an investiga-
8 tion under section 5, the Commission shall make a report
9 of the investigation to the Congress which is a comprehen-
10 sive statement of its scope and extent and the findings
11 made with respect to the criminal liability of the subject
12 of the investigation.

13 (b) PUBLICATION.—The Public Printer shall cause to
14 be printed any such report. Additional copies shall be
15 made available to the public through the depository library
16 program and Superintendent of Documents sales program
17 pursuant to sections 1702 and 1903 of title 44.

18 **SEC. 8. CONSTRUCTION.**

19 (a) CONSTRUCTION.—Nothing in this Act shall be
20 construed to limit, restrict, or diminish any investigatory,
21 informational, oversight, supervisory, or disciplinary au-
22 thority or function of the Congress or any committee of
23 the Congress.

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