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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

No. 981      Session of  
1995

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MARCH 6, 1995

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SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, OCTOBER 7, 1996

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AN ACT

1 Establishing the Special Independent Prosecutor's Panel and  
2 providing for its powers and duties; and providing for  
3 special investigative counsel and for independent counsel.

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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 CHAPTER 1

3 PRELIMINARY PROVISIONS

4 Section 101. Short title.

5 This act shall be known and may be cited as the Independent  
6 Counsel Authorization Act.

7 Section 102. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "General Counsel." The General Counsel of the Commonwealth.

12 "Independent counsel." A person appointed by the Special  
13 Independent Prosecutor's Panel upon the request of a special  
14 investigative counsel.

15 "Panel." The Special Independent Prosecutor's Panel  
16 established under Chapter 3.

17 "Special investigative counsel." A person appointed by the  
18 General Counsel to conduct a preliminary investigation under  
19 this act.

20 CHAPTER 3

21 GENERAL PROVISIONS

22 Section 301. Organization of panel.

23 (a) Composition and selection.--The Special Independent  
24 Prosecutor's Panel shall be composed of ~~one judge of the~~ <—  
25 ~~Superior Court~~, one judge of the Commonwealth Court and ~~one~~ <—  
26 ~~president judge~~ TWO PRESIDENT JUDGES of the courts of common <—  
27 pleas of the Commonwealth. The members of the panel shall be  
28 chosen by lot. The procedure shall be determined by and  
29 supervised by the Court Administrator of Pennsylvania in the  
30 Administrative Office of Pennsylvania Courts. The Administrative

1 Office of Pennsylvania Courts shall disclose to the public the  
2 membership of the panel.

3 (b) Term of members.--Each member of the panel shall hold  
4 office for a term of three years, after which the member may be  
5 designated for another like term. Members shall serve no more  
6 than two consecutive terms.

7 (c) Vacancies.--Any vacancy in the panel shall be filled  
8 only for the remainder of the three-year period in which the  
9 vacancy occurs and in the same manner as initial assignments to  
10 the panel were made.

11 (d) Decisions by majority vote.--All decisions of the panel  
12 shall be by majority vote of the members.

13 Section 302. Preliminary investigation.

14 (a) Preliminary investigation with respect to certain  
15 covered persons.--The General Counsel shall appoint a special  
16 investigative counsel to conduct a preliminary investigation in  
17 accordance with this chapter whenever the General Counsel  
18 receives information sufficient to constitute grounds to  
19 investigate whether any person described in subsection (c) may  
20 have violated any State criminal law other than a violation  
21 classified as a summary offense or a misdemeanor of the second  
22 or third degree.

23 (b) Preliminary investigation with respect to persons not  
24 listed in subsection (c).--The Attorney General may request the  
25 General Counsel to appoint a special investigative counsel to  
26 conduct a preliminary investigation where the Attorney General  
27 determines that an investigation or prosecution of the person,  
28 with respect to the information received, by the Attorney  
29 General or other officer of the Attorney General's office may  
30 result in a personal, financial or political conflict of

1 interest.

2 (c) Persons to whom subsection (a) applies.--The persons  
3 referred to in subsection (a) are as follows:

4 (1) The Attorney General, any Assistant Attorney General  
5 or any individual working in the Attorney General's office  
6 who is defined as a "public employee" under the act of  
7 October 4, 1978 (P.L.883, No.170), referred to as the Public  
8 Official and Employee Ethics Law.

9 (2) Any individual who leaves any office or position  
10 described in paragraph (1) during the incumbency of the  
11 Attorney General with or under whom such individual served in  
12 the office or position plus one year after such incumbency,  
13 but in no event longer than a period of three years after the  
14 individual leaves the office or position.

15 (3) Any individual who held an office or position  
16 described in paragraph (1) during the incumbency of one  
17 Attorney General and who continued to hold the office or  
18 position for not more than 90 days into the term of the next  
19 Attorney General, during the one-year period after the  
20 individual leaves the office or position.

21 (4) The chairman and treasurer of the principal campaign  
22 committee seeking the election or reelection of the Attorney  
23 General, and any officer of that committee exercising  
24 authority at the State level, during the incumbency of the  
25 elected Attorney General.

26 (d) Examination of information to determine need for  
27 preliminary investigation.--

28 (1) In determining under subsection (a) whether grounds  
29 to investigate exist, the General Counsel shall consider only  
30 the following:

1 (i) The specificity of the information received.

2 (ii) The credibility of the source of the  
3 information.

4 (2) The General Counsel shall determine whether grounds  
5 to investigate exist no later than 30 days after the  
6 information is first received. If within that 30-day period  
7 the General Counsel determines that the information is not  
8 specific or is not from a credible source, then the General  
9 Counsel shall close the matter. If within that 30-day period  
10 the General Counsel determines that the information is  
11 specific and from a credible source, the General Counsel  
12 shall, upon making that determination, appoint a special  
13 investigative counsel to commence a preliminary investigation  
14 with respect to that information. If the General Counsel is  
15 unable to determine, within that 30-day period, whether the  
16 information is specific and from a credible source, the  
17 General Counsel shall, at the end of that 30-day period,  
18 commence a preliminary investigation with respect to that  
19 information.

20 Section 303. Conduct of preliminary investigation.

21 (a) In general.--A preliminary investigation conducted under  
22 this act shall be of matters as the special investigative  
23 counsel considers appropriate in order to make a determination  
24 under section 304 or 305 of whether further investigation is  
25 warranted with respect to each potential violation or allegation  
26 of a violation of criminal law. The special investigative  
27 counsel shall make the determination no later than 90 days after  
28 the preliminary investigation is commenced, except that in the  
29 case of a preliminary investigation commenced after a  
30 legislative request under section 309, the special investigative

1 counsel shall make the determination no later than 90 days after  
2 the request is received. The special investigative counsel shall  
3 promptly notify the panel of the commencement of the preliminary  
4 investigation and the date of the commencement.

5 (b) Limited authority of special investigative counsel.--

6 (1) In conducting preliminary investigations under this  
7 act, the special investigative counsel shall have no  
8 authority to convene grand juries, plea bargain, grant  
9 immunity or issue subpoenas.

10 (2) The special investigative counsel shall not base a  
11 determination under this act that information with respect to  
12 a violation of criminal law by a person is not specific and  
13 from a credible source upon a determination that the person  
14 lacked the state of mind required for the violation of  
15 criminal law. The special investigative counsel shall not  
16 base a determination under this act that there are no  
17 reasonable grounds to believe that further investigation is  
18 warranted upon a determination that the person lacked the  
19 state of mind required for the violation of criminal law  
20 involved unless there is clear and convincing evidence that  
21 the person lacked the required state of mind.

22 (c) Extension of time for preliminary investigation.--The  
23 special investigative counsel may apply to the panel for a  
24 single extension, for a period of no more than 60 days, of the  
25 90-day period referred to in subsection (a). The panel may, upon  
26 a showing of good cause, grant the extension.

27 Section 304. Determination that further investigation not  
28 warranted.

29 (a) Notification of panel.--If the special investigative  
30 counsel upon completion of a preliminary investigation under

1 this act determines that there are no reasonable grounds to  
2 believe that further investigation is warranted, the special  
3 investigative counsel shall promptly so notify the panel, and  
4 the panel shall have no power to appoint an independent counsel  
5 with respect to the matters involved.

6 (b) Form of notification.--The notification shall contain a  
7 summary of the information received and a summary of the results  
8 of the preliminary investigation.

9 Section 305. Determination that further investigation is  
10 warranted.

11 (a) Application for appointment of independent counsel.--The  
12 special investigative counsel shall apply to the panel for the  
13 appointment of an independent counsel if:

14 (1) the special investigative counsel, upon completion  
15 of a preliminary investigation under this act, determines  
16 that there are reasonable grounds to believe that further  
17 investigation is warranted; or

18 (2) the 90-day period referred to in section 303(a) and  
19 any extension granted under section 303(c) have elapsed and  
20 the special investigative counsel has not filed a  
21 notification with the panel under section 304(a).

22 (b) Receipt of additional information.--If after submitting  
23 a notification under section 304(a) the special investigative  
24 counsel receives additional information sufficient to constitute  
25 grounds to investigate the matters to which the notification  
26 related, the special investigative counsel shall:

27 (1) Conduct an additional preliminary investigation as  
28 the special investigative counsel considers appropriate for a  
29 period of no more than 90 days after the date on which the  
30 additional information is received.



1           (2) Otherwise comply with the provisions of this chapter  
2       with respect to the additional preliminary investigation to  
3       the same extent as any other preliminary investigation under  
4       this chapter.

5 Section 306. Contents of application.

6       Any application for the appointment of an independent counsel  
7       under this act shall contain sufficient information to assist  
8       the panel in selecting an independent counsel and in defining  
9       that independent counsel's prosecutorial jurisdiction so that  
10      the independent counsel has adequate authority to fully  
11      investigate and prosecute the subject matter and all matters  
12      related to that subject matter.

13 Section 307. Disclosure of information.

14      Except as otherwise provided in this act, no officer or  
15      employee of the office of special investigative counsel or the  
16      office of independent counsel may, without leave of the panel,  
17      disclose to any individual outside the office of special  
18      investigative counsel or office of independent counsel any  
19      notification, application or any other document, material or  
20      memorandum supplied to the panel under this act. Nothing in this  
21      act shall be construed as authorizing the withholding of  
22      information from the General Assembly.

23 Section 308. Limitation on judicial review.

24      The special investigative counsel determination under this  
25      act to apply to the panel for the appointment of an independent  
26      counsel shall not be reviewable in any court.

27 Section 309. Request by General Assembly.

28      (a) By Judiciary Committee ~~or members thereof.~~ --The <—  
29      Judiciary Committee of the Senate or the Judiciary Committee of  
30      the House of Representatives, ~~or a majority of all majority~~ <—

1 ~~party members or a majority of all minority party members of the~~  
2 ~~Judiciary Committee of the Senate or the Judiciary Committee of~~  
3 ~~the House of Representatives,~~ BY A MAJORITY VOTE OF ITS MEMBERS <—  
4 MEMBERSHIP WHICH SHALL INCLUDE A MAJORITY OF ITS MINORITY <—  
5 MEMBERS MAJORITY MEMBERSHIP AND A MAJORITY OF ITS MINORITY <—  
6 MEMBERSHIP, may request in writing that the General Counsel  
7 appoint a special investigative counsel.

8 (b) Report by General Counsel pursuant to request.--No later  
9 than 30 days after the receipt of a request under subsection  
10 (a), the General Counsel shall submit to the committee making  
11 the request or to the committee on which the persons making the  
12 request serve a report on whether the special investigative  
13 counsel has begun or will begin a preliminary investigation  
14 under this act of the matters with respect to which the request  
15 is made in accordance with section 302(a) or (b). The report  
16 shall set forth the reasons for the special investigative  
17 counsel's decision regarding the preliminary investigation as it  
18 relates to each of the matters with respect to which the  
19 legislative request is made. If there is a preliminary  
20 investigation, the report shall include the date on which the  
21 preliminary investigation began or will begin.

22 (c) Submission of information in response to request by  
23 General Assembly.--At the same time as any notification,  
24 application or any other document, material or memorandum is  
25 supplied to the panel under this chapter with respect to a  
26 preliminary investigation of any matter with respect to which a  
27 request is made under subsection (a), the notification,  
28 application or other document, material or memorandum shall be  
29 supplied to the committee making the request or to the committee  
30 on which the persons making the request serve. If no application

1 for the appointment of an independent counsel is made to the  
2 panel under this chapter pursuant to a preliminary  
3 investigation, the special investigative counsel shall submit a  
4 report to that committee stating the reasons why the application  
5 was not made, addressing each matter with respect to which the  
6 legislative request was made.

7 (d) Disclosure of information.--Any report, notification,  
8 application or other document, material or memorandum supplied  
9 to a committee under this section shall not be revealed to any  
10 third party, except that the committee may, either on its own  
11 initiative or upon the request of the General Counsel, make  
12 public the portion of the report, notification, application,  
13 document, material or memorandum as will not in the committee's  
14 judgment prejudice the rights of any individual.

15 Section 310. Duties of panel.

16 (a) Appointment and jurisdiction of independent counsel.--

17 (1) Upon receipt of an application under Chapter 3, the  
18 panel shall appoint an appropriate independent counsel and  
19 shall define that independent counsel's prosecutorial  
20 jurisdiction. The appointment shall occur in no less than 30  
21 days.

22 (2) The panel shall appoint as independent counsel an  
23 individual who has appropriate experience and who will  
24 conduct the investigation and any prosecution in a prompt,  
25 responsible and cost-effective manner. The panel shall seek  
26 to appoint as independent counsel an individual who will  
27 serve to the extent necessary to complete the investigation  
28 and any prosecution without undue delay. The panel may not  
29 appoint as an independent counsel any person who holds any  
30 office of profit or trust with the Commonwealth.

1           (3) In defining the independent counsel's prosecutorial  
2 jurisdiction, the panel shall assure that the independent  
3 counsel has adequate authority to fully investigate and  
4 prosecute the subject matter with respect to which the  
5 special investigative counsel has requested the appointment  
6 of the independent counsel and all matters related to that  
7 subject matter. Jurisdiction shall also include the authority  
8 to investigate and prosecute State crimes, other than those  
9 classified as summary offenses or misdemeanors of the second  
10 or third degree, that may arise out of the investigation or  
11 prosecution of the matter with respect to which the special  
12 investigative counsel's request was made, including, but not  
13 limited to, perjury, obstruction of justice, destruction of  
14 evidence and intimidation of witnesses.

15           (4) The panel shall disclose the identity of the  
16 independent counsel upon appointment.

17       (b) Expansion of jurisdiction.--

18           (1) The panel upon the request of the General Counsel  
19 may expand the prosecutorial jurisdiction of an independent  
20 counsel. The expansion may be in lieu of the appointment of  
21 another independent counsel.

22           (2) If the independent counsel discovers or receives  
23 information about possible violations of criminal law by  
24 persons as provided in section 302 which are not covered by  
25 the prosecutorial jurisdiction of the independent counsel,  
26 the independent counsel may submit the information to the  
27 General Counsel. The General Counsel shall then appoint a  
28 special investigative counsel to conduct a preliminary  
29 investigation of the information in accordance with the  
30 provisions of Chapter 3, except that the preliminary

1 investigation shall not exceed 30 days from the date the  
2 information is received. In making the determinations  
3 required by Chapter 3, the special investigative counsel  
4 shall give great weight to any recommendations of the  
5 independent counsel.

6 (3) If the special investigative counsel determines,  
7 after according great weight to the recommendations of the  
8 independent counsel, that there are no reasonable grounds to  
9 believe that further investigation is warranted, the special  
10 investigative counsel shall promptly so notify the panel, and  
11 the panel shall have no power to expand the jurisdiction of  
12 the independent counsel or to appoint another independent  
13 counsel with respect to the matters involved.

14 (4) The panel shall expand the jurisdiction of the  
15 appropriate independent counsel to include the matters  
16 involved or shall appoint another independent counsel to  
17 investigate the matters if:

18 (i) the special investigative counsel determines  
19 that there are reasonable grounds to believe that further  
20 investigation is warranted; or

21 (ii) the 30-day period referred to in paragraph (2)  
22 elapses without a notification to the panel that no  
23 further investigation is warranted.

24 (c) Return for further explanation.--Upon receipt of a  
25 notification under Chapter 3 or subsection (b)(3) from the  
26 special investigative counsel that there are no reasonable  
27 grounds to believe that further investigation is warranted with  
28 respect to information received under this act, the panel shall  
29 have no authority to overrule this determination but may return  
30 the matter to the special investigative counsel for further

1 explanation of the reasons for the determination.

2 (d) Vacancies.--If a vacancy in office arises by reason of  
3 the resignation, death or removal of an independent counsel, the  
4 panel shall appoint an independent counsel to complete the work  
5 of the independent counsel whose resignation, death or removal  
6 caused the vacancy, except that, in the case of a vacancy  
7 arising by reason of the removal of an independent counsel, the  
8 panel may appoint an acting independent counsel to serve until  
9 any judicial review of the removal is completed.

10 (e) Disclosure of information.--The panel may, subject to  
11 section 507(b), allow the disclosure of any notification,  
12 application or any other document, material or memorandum  
13 supplied to the panel under this act.

14 (f) Amicus curiae briefs.--When presented with significant  
15 legal issues, the panel may disclose sufficient information  
16 about the issues to permit the filing of timely amicus curiae  
17 briefs.

## 18 CHAPTER 5

### 19 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

#### 20 Section 501. Authorities.

21 Notwithstanding any other provision of law, an independent  
22 counsel appointed under this act shall have, with respect to all  
23 matters in the independent counsel's prosecutorial jurisdiction  
24 established under this act, full power and independent authority  
25 to exercise all investigative and prosecutorial functions and  
26 powers of the Office of Attorney General, the Attorney General  
27 and any other officer or employee of the Office of Attorney  
28 General. Investigative and prosecutorial functions and powers  
29 shall include, but are not limited to:

30 (1) Conducting proceedings before grand juries and other

1 investigations.

2 (2) Participating in court proceedings and engaging in  
3 any litigation, including civil and criminal matters, that  
4 the independent counsel considers necessary.

5 (3) Appealing any decision of a court in any case or  
6 proceeding in which the independent counsel participates in  
7 an official capacity.

8 (4) Reviewing all documentary evidence available from  
9 any source.

10 (5) Determining whether to contest the assertion of any  
11 testimonial privilege.

12 (6) Receiving appropriate security clearances and, if  
13 necessary, contesting in court, including, where appropriate,  
14 participating in an in-camera proceeding, any claim of  
15 privilege or attempt to withhold evidence on grounds of  
16 security.

17 (7) Making applications to any State court for a grant  
18 of immunity to any witness, consistent with applicable  
19 statutory requirements, or for warrants, subpoenas or other  
20 court orders, and exercising the authority vested in the  
21 Attorney General or a district attorney.

22 (8) Inspecting, obtaining or using the original or a  
23 copy of any tax return in accordance with applicable statutes  
24 and regulations.

25 (9) Initiating and conducting prosecutions in any court  
26 of competent jurisdiction, framing and signing indictments,  
27 filing information and handling all aspects of any case in  
28 the name of the Commonwealth.

29 (10) Consulting with the district attorney for the  
30 county in which any violation of law with respect to which

1 the independent counsel is appointed was alleged to have  
2 occurred.

3 Section 502. Compensation and travel expenses.

4 An independent counsel appointed under this act shall receive  
5 compensation at the per diem rate equal to the annual rate of  
6 basic pay payable to the Attorney General. An independent  
7 counsel and persons appointed under section 503 shall be  
8 entitled to the payment of travel expenses.

9 Section 503. Additional personnel.

10 For the purposes of carrying out the duties of the office of  
11 independent counsel, the independent counsel may appoint, fix  
12 the compensation and assign the duties of the employees the  
13 independent counsel considers necessary, including, but not  
14 limited to, investigators, attorneys and part-time consultants.  
15 The positions of these employees are exempted from the  
16 competitive service. Employees shall be compensated at levels  
17 not to exceed those payable for comparable positions in the  
18 Office of Attorney General.

19 Section 504. Assistance of Pennsylvania State Police.

20 (a) Carrying out functions.--An independent counsel may  
21 request assistance from the Pennsylvania State Police in  
22 carrying out the functions of the independent counsel, and the  
23 Pennsylvania State Police shall provide that assistance, which  
24 may include the use of the resources and personnel necessary to  
25 perform the independent counsel's duties.

26 (b) Payment of and reports on expenditures of independent  
27 counsel.--The Office of General Counsel shall pay all costs  
28 relating to the establishment and operation of an office of  
29 independent counsel. The General Counsel shall submit to the  
30 General Assembly, no later than 30 days after the end of each



1 fiscal year, a report on amounts paid during that fiscal year  
2 for expenses of investigations and prosecutions by independent  
3 counsel. Each report shall include a statement of all payments  
4 made for activities of independent counsel.

5 Section 505. Referral of other matters to independent counsel.

6 An independent counsel may ask the panel to refer to the  
7 independent counsel matters related to the independent counsel's  
8 prosecutorial jurisdiction, and the panel may refer these  
9 matters. If the Attorney General refers a matter to an  
10 independent counsel on the Attorney General's own initiative,  
11 the independent counsel may accept the referral if the matter  
12 relates to the independent counsel's prosecutorial jurisdiction.

13 Section 506. Dismissal of matters.

14 The independent counsel shall have full authority to dismiss  
15 matters within the independent counsel's prosecutorial  
16 jurisdiction without conducting an investigation or at any  
17 subsequent time before prosecution.

18 Section 507. Reports by independent counsel.

19 (a) Required reports.--An independent counsel shall:

20 (1) File with the panel, with respect to the six-month  
21 period beginning on the date of his appointment, and with  
22 respect to each six-month period thereafter until the office  
23 of that independent counsel terminates, a report which  
24 identifies and explains major expenses, summarizes all other  
25 expenses incurred by that office during the six-month period  
26 with respect to which the report is filed and estimates  
27 future expenses of that office.

28 (2) Before the termination of the independent counsel's  
29 office under section 513(b), file a final report with the  
30 panel, setting forth fully and completely a description of

1 the work of the independent counsel, including the  
2 disposition of all cases brought and the reasons for not  
3 prosecuting any matter within the prosecutorial jurisdiction  
4 of the independent counsel.

5 (b) Disclosure of information in reports.--The panel may  
6 release to the General Assembly, the public or any appropriate  
7 person the portions of a report made under this section as the  
8 panel considers appropriate. The panel shall make any orders as  
9 are appropriate to protect the rights of any individual named in  
10 the report and to prevent undue interference with any pending  
11 prosecution. The panel may make any portion of a final report  
12 filed under subsection (a)(2) available to any individual named  
13 in the report for the purposes of receiving within a time limit  
14 set by the panel any comments or factual information that the  
15 individual may submit. The comments and factual information, in  
16 whole or in part, may in the discretion of the panel be included  
17 as an appendix to the final report.

18 Section 508. Independence from Office of Attorney General.

19 Each independent counsel appointed under this act and the  
20 persons appointed by that independent counsel under section 503  
21 are separate from and independent of the Office of Attorney  
22 General.

23 Section 509. Standards of conduct applicable to independent

24 counsel, persons serving in office of independent  
25 counsel and their law firms.

26 (a) Restrictions on employment while independent counsel and  
27 appointees are serving.--During the period in which an  
28 independent counsel is serving under this act, the independent  
29 counsel and any person associated with a firm with which the  
30 independent counsel is associated may not represent in any

1 matter any person involved in any investigation or prosecution  
2 under this act. During the period in which any person appointed  
3 by an independent counsel under section 503 is serving in the  
4 office of independent counsel, the person may not represent in  
5 any matter any person involved in any investigation or  
6 prosecution under this act.

7 (b) Post-employment restrictions on independent counsel and  
8 appointees.--

9 (1) Each independent counsel and each person appointed  
10 by that independent counsel under section 503 may not for  
11 three years following the termination of service under this  
12 act of that independent counsel or appointed person, as the  
13 case may be, represent any person in any matter if that  
14 individual was the subject of an investigation or prosecution  
15 conducted by that independent counsel under this act.

16 (2) Each independent counsel and each person appointed  
17 by that independent counsel under section 503 may not for one  
18 year following the termination of service under this act of  
19 that independent counsel or appointed person, as the case may  
20 be, represent any person in any matter involving any  
21 investigation or prosecution under this act.

22 (c) One-year ban on representation by members of firms of  
23 independent counsel.--Any person who is associated with a firm  
24 with which an independent counsel is associated or becomes  
25 associated after termination of service of that independent  
26 counsel under this act may not for one year following the  
27 termination represent any person in any matter involving any  
28 investigation or prosecution under this act.

29 (d) Definitions.--As used in this section, the following  
30 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Associated with a firm." A person who is an officer,  
3 director, partner or other member or employee of a law firm.

4 "Firm." A law firm, whether organized as a partnership or  
5 corporation.

6 Section 510. Custody of records of independent counsel.

7 (a) Transfer of records.--Upon termination of the office of  
8 independent counsel, that independent counsel shall transfer to  
9 the Bureau of Archives and History of the Pennsylvania  
10 Historical and Museum Commission all records which have been  
11 created or received by that office. Before this transfer, the  
12 independent counsel shall clearly identify which of these  
13 records are subject to the Pennsylvania Rules of Criminal  
14 Procedure as grand jury materials.

15 (b) Maintenance, use and disposal of records.--Records  
16 transferred to the Bureau of Archives and History under this  
17 section shall be maintained, used and disposed of as provided by  
18 law.

19 Section 511. Cost controls and administrative support.

20 (a) Cost controls.--An independent counsel shall:

21 (1) Conduct all activities with due regard for expense.

22 (2) Authorize only reasonable and lawful expenditures.

23 (3) Promptly upon taking office assign to a specific  
24 employee the duty of certifying that expenditures of the  
25 independent counsel are reasonable and made in accordance  
26 with law.

27 (b) Office of Administration policies.--An independent  
28 counsel shall comply with the established policies of the Office  
29 of Administration of the Governor respecting expenditures of  
30 funds, except to the extent that compliance would be

1 inconsistent with the purposes of this act.

2 Section 512. Legislative oversight.

3 (a) Oversight of conduct of independent counsel.--

4 (1) The Judiciary Committee of the Senate and the  
5 Judiciary Committee of the House of Representatives shall  
6 have oversight jurisdiction with respect to the official  
7 conduct of any independent counsel appointed under this act,  
8 and the independent counsel shall have the duty to cooperate  
9 with the exercise of this oversight jurisdiction.

10 (2) An independent counsel appointed under this act  
11 shall submit to the General Assembly each quarter a report  
12 detailing all moneys expended and submit annually a report on  
13 the activities of the independent counsel, including a  
14 description of the progress of any investigation or  
15 prosecution conducted by the independent counsel. The report  
16 may omit any matter that in the judgment of the independent  
17 counsel should be kept confidential, but shall provide  
18 information adequate to justify the expenditures that the  
19 office of the independent counsel has made.

20 (b) Oversight.--Within 30 days after receiving an inquiry  
21 about a particular case under this act, which is a matter of  
22 public knowledge, from the Judiciary Committee of the Senate or  
23 the Judiciary Committee of the House of Representatives with  
24 jurisdiction over this chapter, the General Counsel shall  
25 provide the following information to that committee with respect  
26 to that case:

27 (1) When the information about the case was received.

28 (2) Whether a preliminary investigation is being  
29 conducted and, if so, the date it began.

30 (3) Whether an application for the appointment of an

1 independent counsel or a notification that further  
2 investigation is not warranted has been filed with the panel,  
3 and, if so, the date of the filing.

4 (c) Information relating to impeachment.--An independent  
5 counsel shall advise the House of Representatives of any  
6 substantial and credible information which the independent  
7 counsel receives in carrying out the independent counsel's  
8 responsibilities under this act that may constitute grounds for  
9 an impeachment. Nothing in this act shall prevent the General  
10 Assembly or either house thereof from obtaining information in  
11 the course of an impeachment proceeding.

12 Section 513. Removal of independent counsel and termination of  
13 office.

14 (a) Removal, report on removal and termination.--

15 (1) An independent counsel appointed under this act may  
16 be removed from office only by the personal action of the  
17 General Counsel and only for good cause, physical disability,  
18 mental incapacity or any other condition that substantially  
19 impairs the performance of the independent counsel's duties.  
20 For purposes of this paragraph, the term "good cause"  
21 includes, but is not limited to, violations of canons of  
22 ethics governing the independent counsel and district  
23 attorneys.

24 (2) If an independent counsel is removed from office,  
25 the General Counsel shall promptly submit to the panel, the  
26 Judiciary Committee of the Senate and the Judiciary Committee  
27 of the House of Representatives a report specifying the facts  
28 found and the ultimate grounds for the removal. The  
29 committees shall make available to the public the report,  
30 except that each committee may, if necessary to protect the

1 rights of any individual named in the report or to prevent  
2 undue interference with any pending prosecution, postpone or  
3 refrain from publishing any or all of the report. The panel  
4 may release any or all of the report in accordance with  
5 section 507(b).

6 (3) An independent counsel removed from office may  
7 obtain judicial review of the removal in a civil action  
8 commenced in the Court of Common Pleas of Dauphin County. A  
9 justice of the Supreme Court may not hear or determine the  
10 civil action or any appeal of a decision in the civil action.  
11 The independent counsel may be reinstated or granted other  
12 appropriate relief by order of the Court of Common Pleas of  
13 Dauphin County.

14 (b) Termination of office.--

15 (1) An office of independent counsel shall terminate  
16 when the independent counsel:

17 (i) notifies the panel that the investigation of all  
18 matters within the prosecutorial jurisdiction of the  
19 independent counsel or accepted by the independent  
20 counsel, and any resulting prosecutions, have been  
21 completed; and

22 (ii) files a final report in compliance with section  
23 507.

24 (2) The panel shall determine on its own motion whether  
25 termination is appropriate under this subsection no later  
26 than two years after the appointment of an independent  
27 counsel or the reported expenditures of the independent  
28 counsel have reached \$2,000,000, whichever occurs first, and  
29 at the end of each succeeding one-year period.

30 Section 514. Audits.

1 By December 31 of each year, an independent counsel shall  
2 prepare a statement of expenditures for the fiscal year that  
3 ended on the immediately preceding June 30. An independent  
4 counsel whose office is terminated prior to the end of the  
5 fiscal year shall prepare a statement of expenditures within 90  
6 days of the date on which the office is terminated. The Auditor  
7 General shall audit each statement and report the results of  
8 each audit to the appropriate committees of the General Assembly  
9 no later than March 31 of the year following the submission of  
10 the statement.

11 Section 515. Relationship with Office of Attorney General.

12 Whenever a matter is in the prosecutorial jurisdiction of an  
13 independent counsel or has been accepted by an independent  
14 counsel under section 505, the Office of Attorney General, the  
15 Attorney General, all other officers and employees of the Office  
16 of Attorney General and any district attorney shall suspend all  
17 investigations and proceedings regarding that matter and shall  
18 turn over to the independent counsel all materials, files and  
19 other data relating to that matter.

20 Section 516. Venue.

21 The proper venue for all prosecutions conducted by the  
22 independent counsel shall be Dauphin County. For the purposes of  
23 convenience and fairness, the panel may, however, set the venue  
24 in any other county on its own motion or at the request of the  
25 independent counsel or on petition of the defendant.

26 CHAPTER 11

27 MISCELLANEOUS PROVISIONS

28 Section 1101. Expiration.

29 This act shall expire five years after the date of the  
30 enactment of this act, except with respect to any matters



1 pending before an independent counsel that in the judgment of  
2 the independent counsel require continuation. Matters shall be  
3 continued until the independent counsel determines the matters  
4 are completed.

5 Section 1102. Effective date.

6 This act shall take effect January 1, 1997.