

Calendar No. 366

117TH CONGRESS
2^D SESSION

S. 4190

To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available to Ukraine for military, economic, and humanitarian aid.

IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, MAY 10), 2022

Mr. KENNEDY (for himself and Mr. RUBIO) introduced the following bill;
which was read the first time

MAY 11, 2022

Read the second time and placed on the calendar

A BILL

To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available to Ukraine for military, economic, and humanitarian aid.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Independent and Ob-
3 jective Oversight of Ukrainian Assistance Act”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are—

6 (1) to provide for the independent and objective
7 conduct and supervision of audits and investigations
8 relating to the programs and operations funded with
9 amounts appropriated or otherwise made available to
10 Ukraine for military, economic, and humanitarian
11 aid;

12 (2) to provide for the independent and objective
13 leadership and coordination of, and recommenda-
14 tions concerning, policies designed—

15 (A) to promote economic efficiency and ef-
16 fectiveness in the administration of the pro-
17 grams and operations described in paragraph
18 (1); and

19 (B) to prevent and detect waste, fraud,
20 and abuse in such programs and operations;
21 and

22 (3) to provide for an independent and objective
23 means of keeping the Secretary of State, the Sec-
24 retary of Defense, and the heads of other relevant
25 Federal agencies fully and currently informed
26 about—

1 (A) problems and deficiencies relating to
2 the administration of the programs and oper-
3 ations described in paragraph (1); and

4 (B) the necessity for, and the progress to-
5 ward implementing, corrective action related to
6 such programs.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) AMOUNTS APPROPRIATED OR OTHERWISE
10 MADE AVAILABLE FOR THE MILITARY, ECONOMIC,
11 AND HUMANITARIAN AID TO UKRAINE.—The term
12 “amounts appropriated or otherwise made available
13 for the military, economic, and humanitarian aid for
14 Ukraine” means amounts appropriated or otherwise
15 made available for any fiscal year—

16 (A) for the Ukraine Security Assistance
17 Initiative;

18 (B) for Foreign Military Financing fund-
19 ing for Ukraine; and

20 (C) under titles III and VI of the Ukraine
21 Supplemental Appropriations Act (division N of
22 Public Law 117–103)

23 (2) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committee on Appropriations of
2 the Senate;

3 (B) the Committee on Armed Services of
4 the Senate;

5 (C) the Committee on Foreign Relations of
6 the Senate;

7 (D) the Committee on Appropriations of
8 the House of Representatives;

9 (E) the Committee on Armed Services of
10 the House of Representatives; and

11 (F) the Committee on Foreign Affairs of
12 the House of Representatives.

13 (3) OFFICE.—The term “Office” means the Of-
14 fice of the Special Inspector General for Ukrainian
15 Military, Economic, and Humanitarian Aid estab-
16 lished under section 4(a).

17 (4) SPECIAL INSPECTOR GENERAL.—The term
18 “Special Inspector General” means the Special In-
19 spector General for Ukrainian Military, Economic,
20 and Humanitarian Aid appointed pursuant to sec-
21 tion 4(b).

1 **SEC. 4. ESTABLISHMENT OF OFFICE OF THE SPECIAL IN-**
2 **SPECTOR GENERAL FOR UKRAINIAN MILI-**
3 **TARY, ECONOMIC, AND HUMANITARIAN AID.**

4 (a) IN GENERAL.—There is hereby established the
5 Office of the Special Inspector General for Ukrainian Mili-
6 tary, Economic, and Humanitarian Aid to carry out the
7 purposes set forth in section 2.

8 (b) APPOINTMENT OF SPECIAL INSPECTOR GEN-
9 ERAL.—The head of the Office shall be the Special Inspec-
10 tor General for Ukrainian Military, Economic, and Hu-
11 manitarian Aid, who shall be appointed by the President.
12 The first Special Inspector General shall be appointed not
13 later than 30 days after the date of the enactment of this
14 Act.

15 (c) QUALIFICATIONS.—The appointment of the Spe-
16 cial Inspector General shall be made solely on the basis
17 of integrity and demonstrated ability in accounting, audit-
18 ing, financial analysis, law, management analysis, public
19 administration, or investigations.

20 (d) COMPENSATION.—The annual rate of basic pay
21 of the Special Inspector General shall be the annual rate
22 of basic pay provided for positions at level IV of the Exec-
23 utive Schedule under section 5315 of title 5, United States
24 Code.

25 (e) PROHIBITION ON POLITICAL ACTIVITIES.—For
26 purposes of section 7324 of title 5, United States Code,

1 the Special Inspector General is not an employee who de-
2 termines policies to be pursued by the United States in
3 the nationwide administration of Federal law.

4 (f) REMOVAL.—The Special Inspector General shall
5 be removable from office in accordance with section 3(b)
6 of the Inspector General Act of 1978 (5 U.S.C. App.).

7 **SEC. 5. ASSISTANT INSPECTORS GENERAL.**

8 The Special Inspector General, in accordance with
9 applicable laws and regulations governing the civil service,
10 shall appoint—

11 (1) an Assistant Inspector General for Audit-
12 ing, who shall supervise the performance of auditing
13 activities relating to programs and operations sup-
14 ported by amounts appropriated or otherwise made
15 available for military, economic, and humanitarian
16 aid to Ukraine; and

17 (2) an Assistant Inspector General for Inves-
18 tigation, who shall supervise the performance of in-
19 vestigative activities relating to the programs and
20 operations described in paragraph (1).

21 **SEC. 6. SUPERVISION.**

22 (a) IN GENERAL.—Except as provided in subsection
23 (b), the Special Inspector General shall report directly to,
24 and be under the general supervision of, the Secretary of
25 State and the Secretary of Defense.

(b) INDEPENDENCE TO CONDUCT INVESTIGATIONS
AND AUDITS.—No officer of the Department of Defense,
the Department of State, the United States Agency for
International Development, or any other relevant Federal
agency may prevent or prohibit the Special Inspector Gen-
eral from—

(1) initiating, carrying out, or completing any
audit or investigation related to amounts appro-
priated or otherwise made available for the military,
economic, and humanitarian aid to Ukraine; or

(2) issuing any subpoena during the course of
any such audit or investigation.

SEC. 7. DUTIES.

(a) OVERSIGHT OF MILITARY, ECONOMIC, AND HU-
MANITARIAN AID TO UKRAINE PROVIDED AFTER FEB-
RUARY 24, 2022.—The Special Inspector General shall
conduct, supervise, and coordinate audits and investiga-
tions of the treatment, handling, and expenditure of
amounts appropriated or otherwise made available for
military, economic, and humanitarian aid to Ukraine, and
of the programs, operations, and contracts carried out uti-
lizing such funds, including—

(1) the oversight and accounting of the obliga-
tion and expenditure of such funds;

1 (2) the monitoring and review of reconstruction
2 activities funded by such funds;

3 (3) the monitoring and review of contracts
4 funded by such funds;

5 (4) the monitoring and review of the transfer of
6 such funds and associated information between and
7 among departments, agencies, and entities of the
8 United States and private and nongovernmental en-
9 tities;

10 (5) the maintenance of records regarding the
11 use of such funds to facilitate future audits and in-
12 vestigations of the use of such funds;

13 (6) the monitoring and review of the effective-
14 ness of United States coordination with the Govern-
15 ment of Ukraine, major recipients of Ukrainian refu-
16 gees, partners in the region, and other donor coun-
17 tries;

18 (7) the investigation of overpayments (such as
19 duplicate payments or duplicate billing) and any po-
20 tential unethical or illegal actions of Federal employ-
21 ees, contractors, or affiliated entities; and

22 (8) the referral of reports compiled as a result
23 of such investigations, as necessary, to the Depart-
24 ment of Justice to ensure further investigations,
25 prosecutions, recovery of funds, or other remedies.

1 (b) OTHER DUTIES RELATED TO OVERSIGHT.—The
2 Special Inspector General shall establish, maintain, and
3 oversee such systems, procedures, and controls as the Spe-
4 cial Inspector General considers appropriate to discharge
5 the duties described in subsection (a).

6 (c) CONSULTATION.—The Special Inspector General
7 shall consult with the appropriate congressional commit-
8 tees before engaging in auditing activities outside of
9 Ukraine.

10 (d) DUTIES AND RESPONSIBILITIES UNDER INSPEC-
11 TOR GENERAL ACT OF 1978.—In addition to the duties
12 specified in subsections (a) and (b), the Special Inspector
13 General shall have the duties and responsibilities of in-
14 spectors general under the Inspector General Act of 1978
15 (5 U.S.C. App.).

16 (e) COORDINATION OF EFFORTS.—In carrying out
17 the duties, responsibilities, and authorities of the Special
18 Inspector General under this Act, the Special Inspector
19 General shall coordinate with, and receive cooperation
20 from—

- 21 (1) the Inspector General of the Department of
22 Defense;
23 (2) the Inspector General of the Department of
24 State;

- 1 (3) the Inspector General of the United States
2 Agency for International Development; and
3 (4) the Inspector General of any other relevant
4 Federal agency.

5 **SEC. 8. POWERS AND AUTHORITIES.**

6 (a) **AUTHORITIES UNDER INSPECTOR GENERAL ACT**
7 **OF 1978.**—In carrying out the duties specified in section
8 7, the Special Inspector General shall have the authorities
9 provided under section 6 of the Inspector General Act of
10 1978, including the authorities under subsection (e) of
11 such section.

12 (b) **AUDIT STANDARDS.**—The Special Inspector Gen-
13 eral shall carry out the duties specified in section 7(a) in
14 accordance with section 4(b)(1) of the Inspector General
15 Act of 1978.

16 **SEC. 9. PERSONNEL, FACILITIES, AND OTHER RESOURCES.**

17 (a) **PERSONNEL.**—The Special Inspector General
18 may select, appoint, and employ such officers and employ-
19 ees as may be necessary for carrying out the duties of the
20 Special Inspector General, subject to the provisions of—

- 21 (1) chapter 33 of title 5, United States Code,
22 governing appointments in the competitive service;
23 and

1 (2) chapter 51 and subchapter III of chapter
2 53 of such title, relating to classification and Gen-
3 eral Schedule pay rates.

4 (b) EMPLOYMENT OF EXPERTS AND CONSULT-
5 ANTS.—The Special Inspector General may obtain the
6 services of experts and consultants in accordance with sec-
7 tion 3109 of title 5, United States Code, at daily rates
8 not to exceed the equivalent rate prescribed for grade GS-
9 15 of the General Schedule under section 5332 of such
10 title.

11 (c) CONTRACTING AUTHORITY.—To the extent and
12 in such amounts as may be provided in advance by appro-
13 priations Acts, the Special Inspector General may—

14 (1) enter into contracts and other arrangements
15 for audits, studies, analyses, and other services with
16 public agencies and with private persons; and

17 (2) make such payments as may be necessary
18 to carry out the duties of the Special Inspector Gen-
19 eral.

20 (d) RESOURCES.—The Secretary of State or the Sec-
21 retary of Defense, as appropriate, shall provide the Special
22 Inspector General with—

23 (1) appropriate and adequate office space at ap-
24 propriate locations of the Department of State or

1 the Department of Defense, as appropriate, in
2 Ukraine or in European partner countries;

3 (2) such equipment, office supplies, and com-
4 munications facilities and services as may be nec-
5 essary for the operation of such offices; and

6 (3) necessary maintenance services for such of-
7 fices and the equipment and facilities located in such
8 offices.

9 (e) ASSISTANCE FROM FEDERAL AGENCIES.—

10 (1) IN GENERAL.—Upon request of the Special
11 Inspector General for information or assistance from
12 any department, agency, or other entity of the Fed-
13 eral Government, the head of such entity shall, to
14 the extent practicable and not in contravention of
15 any existing law, furnish such information or assist-
16 ance to the Special Inspector General or an author-
17 ized designee.

18 (2) REPORTING OF REFUSED ASSISTANCE.—

19 Whenever information or assistance requested by the
20 Special Inspector General is, in the judgment of the
21 Special Inspector General, unreasonably refused or
22 not provided, the Special Inspector General shall im-
23 mediately report the circumstances to—

24 (A) the Secretary of State or the Secretary
25 of Defense, as appropriate; and

1 (B) the appropriate congressional commit-
2 tees.

3 **SEC. 10. REPORTS.**

4 (a) QUARTERLY REPORTS.—Not later than 30 days
5 after the end of each quarter of each fiscal year, the Spe-
6 cial Inspector General shall submit to the appropriate con-
7 gressional committees, the Secretary of State, and the
8 Secretary of Defense a report that—

9 (1) summarizes, for the applicable quarter, and
10 to the extent possible, for the period from the end
11 of such quarter to the date on which the report is
12 submitted, the activities during such period of the
13 Special Inspector General and the activities under
14 programs and operations funded with amounts ap-
15 propriated or otherwise made available for military,
16 economic, and humanitarian aid to Ukraine; and

17 (2) includes, for applicable quarter, a detailed
18 statement of all obligations, expenditures, and reve-
19 nues associated with military, economic, and human-
20 itarian activities in Ukraine, including—

21 (A) obligations and expenditures of appro-
22 priated funds;

23 (B) a project-by-project and program-by-
24 program accounting of the costs incurred to
25 date for military, economic, and humanitarian

1 aid to Ukraine, including an estimate of the
2 costs to be incurred by the Department of De-
3 fense, the Department of State, the United
4 States Agency for International Development,
5 and other relevant Federal agencies to complete
6 each project and each program;

7 (C) revenues attributable to, or consisting
8 of, funds provided by foreign nations or inter-
9 national organizations to programs and projects
10 funded by any Federal department or agency
11 and any obligations or expenditures of such rev-
12 enues;

13 (D) revenues attributable to, or consisting
14 of, foreign assets seized or frozen that con-
15 tribute to programs and projects funded by any
16 Federal department or agency and any obliga-
17 tions or expenditures of such revenues;

18 (E) operating expenses of entities receiving
19 amounts appropriated or otherwise made avail-
20 able for military, economic, and humanitarian
21 aid to Ukraine; and

22 (F) for any contract, grant, agreement, or
23 other funding mechanism described in sub-
24 section (b)—

1 (i) the dollar amount of the contract,
2 grant, agreement, or other funding mecha-
3 nism;

4 (ii) a brief discussion of the scope of
5 the contract, grant, agreement, or other
6 funding mechanism;

7 (iii) a discussion of how the Federal
8 department or agency involved in the con-
9 tract, grant, agreement, or other funding
10 mechanism identified, and solicited offers
11 from, potential individuals or entities to
12 perform the contract, grant, agreement, or
13 other funding mechanism, including a list
14 of the potential individuals or entities that
15 were issued solicitations for the offers; and

16 (iv) the justification and approval doc-
17 uments on which the determination to use
18 procedures other than procedures that pro-
19 vide for full and open competition was
20 based.

21 (b) COVERED CONTRACTS, GRANTS, AGREEMENTS,
22 AND FUNDING MECHANISMS.—A contract, grant, agree-
23 ment, or other funding mechanism described in this sub-
24 section is any major contract, grant, agreement, or other
25 funding mechanism that is entered into by any Federal

1 department or agency that involves the use of amounts
2 appropriated or otherwise made available for the military,
3 economic, or humanitarian aid to Ukraine with any public
4 or private sector entity—

5 (1) to build or rebuild the physical infrastruc-
6 ture of Ukraine;

7 (2) to establish or reestablish a political or soci-
8 etal institution of Ukraine;

9 (3) to provide products or services to the people
10 of Ukraine; or

11 (4) to provide security assistance to Ukraine.

12 (c) PUBLIC AVAILABILITY.—The Special Inspector
13 General shall publish each report submitted pursuant to
14 subsection (a) on a publicly available internet website in
15 English, Ukrainian, and Russian.

16 (d) FORM.—Each report required under subsection
17 (a) shall be submitted in unclassified form, but may in-
18 clude a classified annex if the Special Inspector General
19 determines that a classified annex is necessary.

20 (e) SUBMISSION OF COMMENTS TO CONGRESS.—
21 During the 30-day period beginning on the date a report
22 is received under subsection (a), the Secretary of State
23 and the Secretary of Defense may submit comments to
24 the appropriate congressional committees, in unclassified
25 form, regarding any matters covered by the report that

1 the Secretary of State or the Secretary of Defense con-
 2 siderers appropriate. Such comments may include a classi-
 3 fied annex if the Secretary of State or the Secretary of
 4 Defense considers such annex to be necessary.

5 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
 6 tion may be construed to authorize the public disclosure
 7 of information that is—

8 (1) specifically prohibited from disclosure by
 9 any other provision of law;

10 (2) specifically required by Executive order to
 11 be protected from disclosure in the interest of de-
 12 fense or national security or in the conduct of for-
 13 eign affairs; or

14 (3) a part of an ongoing criminal investigation.

15 **SEC. 11. TRANSPARENCY.**

16 (a) REPORT.—Except as provided in subsection (c),
 17 not later than 60 days after receiving a report under sec-
 18 tion 10(a), the Secretary of State and the Secretary of
 19 Defense shall jointly make copies of the report available
 20 to the public upon request and at a reasonable cost.

21 (b) COMMENTS.—Except as provided in subsection
 22 (c), not later than 60 days after submitting comments
 23 pursuant to section 10(e), the Secretary of State and the
 24 Secretary of Defense shall jointly make copies of such

1 comments available to the public upon request and at a
2 reasonable cost.

3 (c) WAIVER.—

4 (1) AUTHORITY.—The President may waive the
5 requirement under subsection (a) or (b) with respect
6 to availability to the public of any element in a re-
7 port submitted pursuant to section 10(a) or any
8 comments submitted pursuant to section 10(e) if the
9 President determines that such waiver is justified
10 for national security reasons.

11 (2) NOTICE OF WAIVER.—The President shall
12 publish a notice of each waiver made under para-
13 graph (1) in the Federal Register not later than the
14 date of the submission to the appropriate congres-
15 sional committees of a report required under section
16 10(a) or any comments under section 10(e). Each
17 such report and comments shall specify whether a
18 waiver was made pursuant to paragraph (1) and
19 which elements in the report or the comments were
20 affected by such waiver.

21 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) IN GENERAL.—There is authorized to be appro-
23 priated \$20,000,000 for fiscal year 2023 to carry out this
24 Act.

1 (b) OFFSET.—The amount appropriated under the
2 heading “ASSISTANCE FOR EUROPE, EURASIA, AND CEN-
3 TRAL ASIA” in title III of the Department of State, For-
4 eign Operations, and Related Programs Appropriations
5 Act, 2022 (division K of Public Law 117–103) is reduced
6 by \$20,000,000.

7 **SEC. 13. TERMINATION.**

8 (a) IN GENERAL.—The Office shall terminate on the
9 day that is 180 days after the date on which amounts ap-
10 propriated or otherwise made available for the reconstruc-
11 tion of Ukraine that are unexpended are less than
12 \$250,000,000.

13 (b) FINAL REPORT.—Before the termination date re-
14 ferred to in subsection (a), the Special Inspector General
15 shall prepare and submit to the appropriate congressional
16 committees a final forensic audit report on programs and
17 operations funded with amounts appropriated or otherwise
18 made available for the military, economic, and humani-
19 tarian aid to Ukraine.

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