

118TH CONGRESS
1ST SESSION

S. 541

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

FEBRUARY 28, 2023

Mr. KENNEDY (for himself, Ms. SINEMA, Mrs. HYDE-SMITH, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Independent and Objective Oversight of Ukrainian As-
6 sistance Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.
- Sec. 4. Establishment of Office of the Special Inspector General for Ukrainian
 Military, Economic, and Humanitarian Aid.
- Sec. 5. Assistant Inspectors General.
- Sec. 6. Supervision.
- Sec. 7. Duties.
- Sec. 8. Powers and authorities.
- Sec. 9. Personnel, facilities, and other resources.
- Sec. 10. Reports.
- Sec. 11. Transparency.
- Sec. 12. Authorization of appropriations.
- Sec. 13. Termination.

3 **SEC. 2. PURPOSES.**

4 The purposes of this Act are—

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

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

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

1 (B) to prevent and detect waste, fraud,
2 and abuse in such programs and operations;
3 and

4 (3) to provide for an independent and objective
5 means of keeping the Secretary of State, the Sec-
6 retary of Defense, and the heads of other relevant
7 Federal agencies fully and currently informed
8 about—

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

12 (B) the necessity for, and the progress to-
13 ward implementing, corrective action related to
14 such programs.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) AMOUNTS APPROPRIATED OR OTHERWISE
18 MADE AVAILABLE FOR THE MILITARY, ECONOMIC,
19 AND HUMANITARIAN AID TO UKRAINE.—The term
20 “amounts appropriated or otherwise made available
21 for the military, economic, and humanitarian aid for
22 Ukraine” means amounts appropriated or otherwise
23 made available for any fiscal year—

24 (A) for the Ukraine Security Assistance
25 Initiative;

1 (B) for Foreign Military Financing fund-
2 ing for Ukraine;

3 (C) to the Department of State under the
4 heading “NONPROLIFERATION, ANTI-TER-
5 RORISM, DEMINING AND RELATED PROGRAMS”;
6 and

7 (D) under titles III and VI of the Ukraine
8 Supplemental Appropriations Act (division N of
9 Public Law 117–103).

10 (2) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Appropriations of
14 the Senate;

15 (B) the Committee on Armed Services of
16 the Senate;

17 (C) the Committee on Foreign Relations of
18 the Senate;

19 (D) the Committee on Homeland Security
20 and Governmental Affairs of the Senate;

21 (E) the Committee on Appropriations of
22 the House of Representatives;

23 (F) the Committee on Armed Services of
24 the House of Representatives;

1 (G) the Committee on Foreign Affairs of
2 the House of Representatives; and

3 (H) the Committee on Oversight and Re-
4 form of the House of Representatives.

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

9 (4) SPECIAL INSPECTOR GENERAL.—The term
10 “Special Inspector General” means the Special In-
11 spector General for Ukrainian Military, Economic,
12 and Humanitarian Aid appointed pursuant to sec-
13 tion 4(b).

14 **SEC. 4. ESTABLISHMENT OF OFFICE OF THE SPECIAL IN-**
15 **SPECTOR GENERAL FOR UKRAINIAN MILI-**
16 **TARY, ECONOMIC, AND HUMANITARIAN AID.**

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

21 (b) APPOINTMENT OF SPECIAL INSPECTOR GEN-
22 ERAL.—The head of the Office shall be the Special Inspec-
23 tor General for Ukrainian Military, Economic, and Hu-
24 manitarian Aid, who shall be appointed by the President.
25 The first Special Inspector General shall be appointed not

1 later than 30 days after the date of the enactment of this
2 Act.

3 (c) QUALIFICATIONS.—The appointment of the Spe-
4 cial Inspector General shall be made solely on the basis
5 of integrity and demonstrated ability in accounting, audit-
6 ing, financial analysis, law, management analysis, public
7 administration, or investigations.

8 (d) COMPENSATION.—The annual rate of basic pay
9 of the Special Inspector General shall be the annual rate
10 of basic pay provided for positions at level IV of the Exec-
11 utive Schedule under section 5315 of title 5, United States
12 Code.

13 (e) PROHIBITION ON POLITICAL ACTIVITIES.—For
14 purposes of section 7324 of title 5, United States Code,
15 the Special Inspector General is not an employee who de-
16 termines policies to be pursued by the United States in
17 the nationwide administration of Federal law.

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

21 **SEC. 5. ASSISTANT INSPECTORS GENERAL.**

22 The Special Inspector General, in accordance with
23 applicable laws and regulations governing the civil service,
24 shall appoint—

1 (1) an Assistant Inspector General for Audit-
2 ing, who shall supervise the performance of auditing
3 activities relating to programs and operations sup-
4 ported by amounts appropriated or otherwise made
5 available for military, economic, and humanitarian
6 aid to Ukraine; and

7 (2) an Assistant Inspector General for Inves-
8 tigations, who shall supervise the performance of in-
9 vestigative activities relating to the programs and
10 operations described in paragraph (1).

11 **SEC. 6. SUPERVISION.**

12 (a) IN GENERAL.—Except as provided in subsection
13 (b), the Special Inspector General shall report directly to,
14 and be under the general supervision of, the Secretary of
15 State and the Secretary of Defense.

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

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

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

3 **SEC. 7. DUTIES.**

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

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

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

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

19 (4) the monitoring and review of the transfer of
20 such funds and associated information between and
21 among departments, agencies, and entities of the
22 United States and private and nongovernmental en-
23 tities;

1 (5) the maintenance of records regarding the
2 use of such funds to facilitate future audits and in-
3 vestigations of the use of such funds;

4 (6) the monitoring and review of the effective-
5 ness of United States coordination with the Govern-
6 ment of Ukraine, major recipients of Ukrainian refu-
7 gees, partners in the region, and other donor coun-
8 tries;

9 (7) the investigation of overpayments (such as
10 duplicate payments or duplicate billing) and any po-
11 tential unethical or illegal actions of Federal employ-
12 ees, contractors, or affiliated entities; and

13 (8) the referral of reports compiled as a result
14 of such investigations, as necessary, to the Depart-
15 ment of Justice to ensure further investigations,
16 prosecutions, recovery of funds, or other remedies.

17 (b) OTHER DUTIES RELATED TO OVERSIGHT.—The
18 Special Inspector General shall establish, maintain, and
19 oversee such systems, procedures, and controls as the Spe-
20 cial Inspector General considers appropriate to discharge
21 the duties described in subsection (a).

22 (c) CONSULTATION.—The Special Inspector General
23 shall consult with the appropriate congressional commit-
24 tees before engaging in auditing activities outside of
25 Ukraine.

1 (d) DUTIES AND RESPONSIBILITIES UNDER INSPEC-
2 TOR GENERAL ACT OF 1978.—In addition to the duties
3 specified in subsections (a) and (b), the Special Inspector
4 General shall have the duties and responsibilities of in-
5 spectors general under the Inspector General Act of 1978
6 (5 U.S.C. App.).

7 (e) COORDINATION OF EFFORTS.—In carrying out
8 the duties, responsibilities, and authorities of the Special
9 Inspector General under this Act, the Special Inspector
10 General shall coordinate with, and receive cooperation
11 from—

12 (1) the Inspector General of the Department of
13 Defense;

14 (2) the Inspector General of the Department of
15 State;

16 (3) the Inspector General of the United States
17 Agency for International Development; and

18 (4) the Inspector General of any other relevant
19 Federal agency.

20 **SEC. 8. POWERS AND AUTHORITIES.**

21 (a) AUTHORITIES UNDER INSPECTOR GENERAL ACT
22 OF 1978.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), in carrying out the duties specified in sec-
25 tion 7, the Special Inspector General shall have the

1 authorities provided under section 6 of the Inspector
2 General Act of 1978, including the authorities under
3 subsection (e) of such section.

4 (2) LIMITATION.—The Special Inspector Gen-
5 eral is not authorized to audit or investigate the in-
6 telligence community (as defined in section 3 of the
7 National Security Act of 1947 (50 U.S.C. 3003)).

8 (b) AUDIT STANDARDS.—The Special Inspector Gen-
9 eral shall carry out the duties specified in section 7(a) in
10 accordance with section 4(b)(1) of the Inspector General
11 Act of 1978.

12 (c) EXPEDITED HIRING AUTHORITY.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 the Special Inspector General may exercise any au-
15 thority provided to the head of a temporary organi-
16 zation under section 3161 of title 5, United States
17 Code, without regard to whether the Office qualifies
18 as a temporary organization under subsection (a) of
19 that section.

20 (2) LIMITATIONS.—With respect to the exercise
21 of authority under subsection (b) of section 3161 of
22 title 5, United States Code, as authorized under
23 paragraph (1)—

1 (A) the Special Inspector General may not
2 make any appointment under that subsection
3 on or after the later of—

4 (i) the date that is 180 days after the
5 date of enactment of this Act; or

6 (ii) the date that is 180 days after the
7 date on which the Special Inspector Gen-
8 eral is confirmed by the Senate;

9 (B) paragraph (2) of that subsection (re-
10 lating to periods of appointments) shall not
11 apply; and

12 (C) no period of an appointment made
13 under that subsection may extend after the date
14 on which the Office terminates under section
15 13.

16 (3) REEMPLOYMENT OF ANNUITANTS.—

17 (A) IN GENERAL.—Subject to subpara-
18 graph (B), if an annuitant receiving an annuity
19 from the Civil Service Retirement and Dis-
20 ability Fund becomes employed in a position in
21 the Office—

22 (i) the annuity of that annuitant shall
23 continue; and

24 (ii) such reemployed annuitant shall
25 not be considered to be an employee for

1 the purposes of chapter 83 or 84 of title
2 5, United States Code.

3 (B) LIMITATIONS.—Subparagraph (A)
4 shall apply to—

5 (i) not more than 25 employees of the
6 Office at any particular time, as des-
7 ignated by the Special Inspector General;
8 and

9 (ii) pay periods beginning after the
10 date of enactment of this Act.

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

12 (a) PERSONNEL.—The Special Inspector General
13 may select, appoint, and employ such officers and employ-
14 ees as may be necessary for carrying out the duties of the
15 Special Inspector General, subject to the provisions of—

16 (1) chapter 33 of title 5, United States Code,
17 governing appointments in the competitive service;
18 and

19 (2) chapter 51 and subchapter III of chapter
20 53 of such title, relating to classification and Gen-
21 eral Schedule pay rates.

22 (b) EMPLOYMENT OF EXPERTS AND CONSULT-
23 ANTS.—The Special Inspector General may obtain the
24 services of experts and consultants in accordance with sec-
25 tion 3109 of title 5, United States Code, at daily rates

1 not to exceed the equivalent rate prescribed for grade GS–
2 15 of the General Schedule under section 5332 of such
3 title.

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

7 (1) enter into contracts and other arrangements
8 for audits, studies, analyses, and other services with
9 public agencies and with private persons; and

10 (2) make such payments as may be necessary
11 to carry out the duties of the Special Inspector Gen-
12 eral.

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

16 (1) appropriate and adequate office space at ap-
17 propriate locations of the Department of State or
18 the Department of Defense, as appropriate, in
19 Ukraine or in European partner countries;

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

23 (3) necessary maintenance services for such of-
24 fices and the equipment and facilities located in such
25 offices.

1 (e) ASSISTANCE FROM FEDERAL AGENCIES.—

2 (1) IN GENERAL.—Upon request of the Special
3 Inspector General for information or assistance from
4 any department, agency, or other entity of the Fed-
5 eral Government, the head of such entity shall, to
6 the extent practicable and not in contravention of
7 any existing law, furnish such information or assist-
8 ance to the Special Inspector General or an author-
9 ized designee.

10 (2) REPORTING OF REFUSED ASSISTANCE.—

11 Whenever information or assistance requested by the
12 Special Inspector General is, in the judgment of the
13 Special Inspector General, unreasonably refused or
14 not provided, the Special Inspector General shall im-
15 mediately report the circumstances to—

16 (A) the Secretary of State or the Secretary
17 of Defense, as appropriate; and

18 (B) the appropriate congressional commit-
19 tees.

20 **SEC. 10. REPORTS.**

21 (a) QUARTERLY REPORTS.—Not later than 30 days
22 after the end of each quarter of each fiscal year, the Spe-
23 cial Inspector General shall submit to the appropriate con-
24 gressional committees, the Secretary of State, and the
25 Secretary of Defense a report that—

1 (1) summarizes, for the applicable quarter, and
2 to the extent possible, for the period from the end
3 of such quarter to the date on which the report is
4 submitted, the activities during such period of the
5 Special Inspector General and the activities under
6 programs and operations funded with amounts ap-
7 propriated or otherwise made available for military,
8 economic, and humanitarian aid to Ukraine; and

9 (2) includes, for applicable quarter, a detailed
10 statement of all obligations, expenditures, and reve-
11 nues associated with military, economic, and human-
12 itarian activities in Ukraine, including—

13 (A) obligations and expenditures of appro-
14 priated funds;

15 (B) a project-by-project and program-by-
16 program accounting of the costs incurred to
17 date for military, economic, and humanitarian
18 aid to Ukraine, including an estimate of the
19 costs to be incurred by the Department of De-
20 fense, the Department of State, the United
21 States Agency for International Development,
22 and other relevant Federal agencies to complete
23 each project and each program;

24 (C) revenues attributable to, or consisting
25 of, funds provided by foreign nations or inter-

1 national organizations to programs and projects
2 funded by any Federal department or agency
3 and any obligations or expenditures of such rev-
4 enues;

5 (D) revenues attributable to, or consisting
6 of, foreign assets seized or frozen that con-
7 tribute to programs and projects funded by any
8 Federal department or agency and any obliga-
9 tions or expenditures of such revenues;

10 (E) operating expenses of entities receiving
11 amounts appropriated or otherwise made avail-
12 able for military, economic, and humanitarian
13 aid to Ukraine; and

14 (F) for any contract, grant, agreement, or
15 other funding mechanism described in sub-
16 section (b)—

17 (i) the dollar amount of the contract,
18 grant, agreement, or other funding mecha-
19 nism;

20 (ii) a brief discussion of the scope of
21 the contract, grant, agreement, or other
22 funding mechanism;

23 (iii) a discussion of how the Federal
24 department or agency involved in the con-
25 tract, grant, agreement, or other funding

1 mechanism identified, and solicited offers
2 from, potential individuals or entities to
3 perform the contract, grant, agreement, or
4 other funding mechanism, including a list
5 of the potential individuals or entities that
6 were issued solicitations for the offers; and
7 (iv) the justification and approval doc-
8 uments on which the determination to use
9 procedures other than procedures that pro-
10 vide for full and open competition was
11 based.

12 (b) COVERED CONTRACTS, GRANTS, AGREEMENTS,
13 AND FUNDING MECHANISMS.—A contract, grant, agree-
14 ment, or other funding mechanism described in this sub-
15 section is any major contract, grant, agreement, or other
16 funding mechanism that is entered into by any Federal
17 department or agency that involves the use of amounts
18 appropriated or otherwise made available for the military,
19 economic, or humanitarian aid to Ukraine with any public
20 or private sector entity—

21 (1) to build or rebuild the physical infrastruc-
22 ture of Ukraine;

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

1 (3) to provide products or services to the people
2 of Ukraine; or

3 (4) to provide security assistance to Ukraine.

4 (c) PUBLIC AVAILABILITY.—The Special Inspector
5 General shall publish each report submitted pursuant to
6 subsection (a) on a publicly available internet website in
7 English, Ukrainian, and Russian.

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

12 (e) SUBMISSION OF COMMENTS TO CONGRESS.—
13 During the 30-day period beginning on the date a report
14 is received pursuant to subsection (a), the Secretary of
15 State and the Secretary of Defense may submit comments
16 to the appropriate congressional committees, in unclassi-
17 fied form, regarding any matters covered by the report
18 that the Secretary of State or the Secretary of Defense
19 considers appropriate. Such comments may include a clas-
20 sified annex if the Secretary of State or the Secretary of
21 Defense considers such annex to be necessary.

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

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

3 (2) specifically required by Executive order to
4 be protected from disclosure in the interest of de-
5 fense or national security or in the conduct of for-
6 eign affairs; or

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

8 **SEC. 11. TRANSPARENCY.**

9 (a) REPORT.—Except as provided in subsection (c),
10 not later than 60 days after receiving a report pursuant
11 to section 10(a), the Secretary of State and the Secretary
12 of Defense shall jointly make copies of the report available
13 to the public upon request and at a reasonable cost.

14 (b) COMMENTS.—Except as provided in subsection
15 (c), not later than 60 days after submitting comments
16 pursuant to section 10(e), the Secretary of State and the
17 Secretary of Defense shall jointly make copies of such
18 comments available to the public upon request and at a
19 reasonable cost.

20 (c) WAIVER.—

21 (1) AUTHORITY.—The President may waive the
22 requirement under subsection (a) or (b) with respect
23 to availability to the public of any element in a re-
24 port submitted pursuant to section 10(a) or any
25 comments submitted pursuant to section 10(e) if the

1 President determines that such waiver is justified
2 for national security reasons.

3 (2) NOTICE OF WAIVER.—The President shall
4 publish a notice of each waiver made under para-
5 graph (1) in the Federal Register not later than the
6 date of the submission to the appropriate congres-
7 sional committees of a report required under section
8 10(a) or any comments submitted pursuant to sec-
9 tion 10(e). Each such report and comments shall
10 specify whether a waiver was made pursuant to
11 paragraph (1) and which elements in the report or
12 the comments were affected by such waiver.

13 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—There is authorized to be appro-
15 priated \$20,000,000 for fiscal year 2024 to carry out this
16 Act.

17 (b) RESCISSION.—Of the amount appropriated under
18 the heading “ASSISTANCE FOR EUROPE, EURASIA, AND
19 CENTRAL ASIA” in title III of the Department of State,
20 Foreign Operations, and Related Programs Appropria-
21 tions Act, 2023 (division K of Public Law 117–328),
22 \$20,000,000 is rescinded.

23 **SEC. 13. TERMINATION.**

24 (a) IN GENERAL.—The Office shall terminate on the
25 day that is 180 days after the date on which amounts ap-

1 appropriated or otherwise made available for the reconstruc-
2 tion of Ukraine that are unexpended are less than
3 \$250,000,000.

4 (b) FINAL REPORT.—Before the termination date re-
5 ferred to in subsection (a), the Special Inspector General
6 shall prepare and submit to the appropriate congressional
7 committees a final forensic audit report on programs and
8 operations funded with amounts appropriated or otherwise
9 made available for the military, economic, and humani-
10 tarian aid to Ukraine.

○