

Calendar No. 191

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-88

GAO INSPECTOR GENERAL PARITY
ACT OF 2023

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1510

TO AMEND PROVISIONS RELATING TO THE OFFICE OF THE
INSPECTOR GENERAL OF THE GOVERNMENT ACCOUNTABILITY
OFFICE, AND FOR OTHER PROGRAMS



AUGUST 22, 2023.—Ordered to be printed
Filed, under authority of the order of the Senate of July 27, 2023

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—————

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1510]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1510) to amend provisions relating to the Office of the Inspector General of the Government Accountability Office, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 1510, the *GAO Inspector General Parity Act*, amends chapter 7 of title 31, United States Code and would provide the Government Accountability Office (GAO) Inspector General (IG) the same protections granted to other federal IGs in recent reforms, including requiring a written notification to Congress before removing the IG, codifying pass-through budgeting for the IG, requiring that

the Office of the Inspector General (OIG) have its own counsel, and eliminating GAO OIG pay-caps.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The GAO IG is governed by chapter 7 of title 31, United States Code and, as a result it has not benefited from the reforms Congress passed for other IGs. The lack of these protections gives the appearance that the GAO IG is less independent than other federal IGs—which could affect perceptions of the quality of the IG’s oversight—although Congress is unaware of any challenge to GAO IG’s independence in practice. S. 1510 makes several changes to give the GAO IG the same independence protections granted to other IGs in the executive and legislative branches. For example, the Inspector General Reform Act of 2008 required that OIGs rely on their own independent counsel or the counsel of another OIG for legal advice, rather than the counsel of the agency or another executive branch entity.¹ This law impacted only those IGs governed by the Inspector General Act of 1978 (IG Act), which does not govern the GAO IG.² This bill would impose the same requirement on the GAO IG.

The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 also made reforms to the IG Act, including strengthening a congressional notification requirement prior to an IG being removed from office.³ S. 1510 would create the same requirement in the event the Comptroller General (CG) removes the GAO IG from office.

Other legislative branch agencies, including the Library of Congress, Architect of the Capitol, and Government Publishing Office, were required by the Further Consolidated Appropriations Act, 2020 to pass-through their respective IG’s budget requests without change.⁴ This bill would require the same of GAO for the GAO IG budget.

Finally, section 705 of title 31, United States Code ties GAO IG pay to the pay rate of the CG, and ties IG staff pay to that of the IG. Because the CG is subject to a pay freeze that has been in place since 2014, the GAO IG and senior OIG staff have also had their pay frozen since that time.⁵ S. 1510 would eliminate this pay link, instead setting IG and OIG staff pay at levels consistent with staff pay rates across the federal government.

III. LEGISLATIVE HISTORY

Senator Mike Braun (R-IN) introduced S. 1510, the *GAO Inspector General Parity Act*, on May 10, 2023, with original cosponsor Senator Gary Peters (D-MI). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1510 at a business meeting on May 17, 2023. At the business meeting, the bill was ordered reported fa-

¹The Inspector General Reform Act of 2008, Pub. L. No. 110-409.

²The Inspector General Act of 1978, Pub. L. No. 95-452.

³The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263.

⁴Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94.

⁵Stephanie Drew, *Congress upholds pay freeze for political appointees, vice president through end of 2022*, Federal News Network (Apr. 19, 2022) (federalnewsnetwork.com/pay/2022/04/congress-upholds-pay-freeze-for-political-appointees-vice-president-through-end-of-2022/).

vorably by roll call vote of 9 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Lankford, and Romney voting in the affirmative, and Senator Paul voting in the negative. Senators Carper, Johnson, Scott, Hawley, and Marshall voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “GAO Inspector General Parity Act.”

Section 2. Office of the Inspector General of the Government Accountability Office

This section amends section 705 of title 31, United States Code by requiring that the Comptroller General (CG) provide to Congress a written, substantive rationale before removing the GAO IG from office or placing the IG on non-duty status, which shall include information about any open or completed inquiry into the IG relating to the change in status. It also stipulates that only the CG may remove the IG from office, and prohibits the CG from placing the IG on non-duty status in the 30 days prior to removal except for certain circumstances.

This section also amends section 705 of title 31, United States Code by: (1) eliminating the link between the pay of the IG and the CG and instead stipulating that the IG shall be paid no less than the average pay rate of other senior GAO employees; (2) requiring that the OIG budget request be included in the GAO budget request without change by the CG; (3) eliminating the requirement that OIG staff pay be no greater than \$1,000 less than the IG’s salary; and (4) requiring that the IG obtain legal advice from a counsel reporting directly to the GAO IG or another IG.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1510, GAO Inspector General Parity Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 17, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S.1510 would codify rules governing the removal of the Inspector General (IG) of the Government Accountability Office (GAO). The bill also would require the Comptroller General to report to the Congress prior to removing, transferring, or placing the IG on non-duty status and to provide a substantive rationale for the decision. In addition, the bill would modify restrictions on pay for certain GAO staff. Using information from the agency, CBO expects that this change could increase pay for a small number of people.

CBO estimates that implementing the bill would increase GAO’s administrative and operating expenses by an insignificant amount over the 2023–2028 period. Any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Kelly Durand. The estimate was reviewed by Emily Stern, Senior Adviser for Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 31—MONEY AND FINANCE

* * * * *

Subtitle I—General

* * * * *

CHAPTER 7—GOVERNMENT ACCOUNTABILITY OFFICE

* * * * *

Subchapter I—Definitions and General Organization

* * * * *

SEC. 705. Inspector General for the Government Accountability Office

(a) * * *

(b) * * *

(1) * * *

(2)(A) The Inspector General may be removed from office by the Comptroller General. **【The Comptroller General shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.】**

(B) If the Inspector General is removed from office or is transferred to another position or location within the Government Accountability Office, the Comptroller General shall communicate in writing the substantive rationale, including detailed and case-specific reasons, for any such removal or transfer to both Houses of Congress (including to the appropriate congressional committees), not later than 30 days before the removal or transfer.

(C) If there is an open or completed inquiry into the Inspector General that relates to the removal or transfer of the Inspector General under subparagraph (A), the written communication required under subparagraph (B) shall—

(i) identify each entity that is conducting, or that conducted, the inquiry; and

(ii) in the case of a completed inquiry, contain the findings made during the inquiry.

(D) Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(3)(A) *Subject to the other provisions of this paragraph, only the Comptroller General may place the Inspector General on non-duty status.*

(B) If the Comptroller General places the Inspector General on non-duty status, the Comptroller General shall communicate in writing the substantive rationale, including detailed and case-specific reasons, for the change in status to both Houses of Congress (including to the appropriate congressional committees) not later than 15 days before the date on which the change in status takes effect, except that the Comptroller General may submit that communication not later than the date on which the change in status takes effect if—

(i) the Comptroller General has made a determination that the continued presence of the Inspector General in the workplace poses a specific threat; and

(ii) in the communication, the Comptroller General includes a report on the determination described in clause (i), which shall include—

(I) the substantive rationale, including detailed and case-specific reasons, for the determination made under clause (i);

(II) an identification of each entity that is conducting, or that conducted, any inquiry upon which the determination under clause (i) was made; and

(III) in the case of an inquiry described in subclause (II) that is completed, the findings made during that inquiry.

(C) The Comptroller General may not place the Inspector General on non-duty status during the 30-day period preceding the date on which the Inspector General is removed or transferred under paragraph (2)(A) unless the Comptroller General—

(i) has made a determination that the continued presence of the Inspector General in the workplace poses a specific threat; and

(ii) not later than the date on which the change in status takes effect, submits to both Houses of Congress (including to the appropriate congressional committees) a written communication that contains the information required under subparagraph (B), including the report required under clause (ii) of that subparagraph.

(D) Nothing in this paragraph may be construed to limit or otherwise modify any statutory protection that is afforded to the Inspector General or a personnel action that is otherwise authorized by law.

[3](4)(A) The Inspector General shall **[be paid at an annual rate of pay equal to \$5,000 less than the annual rate of pay of the Comptroller General]** have a rate of basic pay that is not less than the average rate of basic pay of all other employees of the Government Accountability Office in positions established under section 732a or 733 of this title, and may not receive any cash award or bonus, including any award under chapter 45 of title 5.

(B) The Comptroller General shall establish the amount of the annual adjustment of the rate of basic pay for the Inspector General in an amount equal to the average of the annual adjustments in the rate of basic pay provided pursuant to section 733(a)(3)(b) of this title to all other employees in positions established under section 732a or 733 of this title.

(c) * * *

(d) * * *

(e) * * *

(f) INDEPENDENCE IN CARRYING OUT DUTIES AND RESPONSIBILITIES.—**[The Comptroller General]** (1) PROHIBITION.—*The Comptroller General* may not prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities of the Inspector General under this section.

(2) BUDGET INDEPENDENCE.—*The Comptroller General shall include the annual budget request of the Inspector General in the budget of the Government Accountability Office without change.*

(g) AUTHORITY FOR STAFF.—

(1) IN GENERAL.—The Inspector General shall select, appoint, and employ (including fixing and adjusting the rates of

pay of) such personnel as may be necessary to carry out this section consistent with the provisions of this title governing selections, appointments, and employment (including the fixing and adjusting the rates of pay) in the Government Accountability Office. Such personnel shall be appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service【, except that no personnel of the Office may be paid at an annual rate greater than \$1,000 less than the annual rate of pay of the Inspector General】.

(2) * * *

(3) * * *

(4) * * *

(5) *LEGAL ADVICE.*—*The Inspector General shall, in accordance with applicable laws and regulations governing selections, appointments, and employment at the Government Accountability Office, obtain legal advice from a counsel reporting directly to the Inspector General or another Inspector General.*

* * * * *

