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Calendar No. 523

112TH CONGRESS *2d Session*	SENATE	REPORT 112–219

GAO MANDATES REVISION ACT OF 2012

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 3315

TO REPEAL OR MODIFY CERTAIN MANDATES OF THE GOVERNMENT ACCOUNTABILITY OFFICE

SEPTEMBER 19, 2012.—Ordered to be printed

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SEPTEMBER 19, 2012.—Ordered to be printed

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

R E P O R T

[To accompany S. 3315]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3315) to repeal or modify certain mandates of the Government Accountability Office, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

The purpose of this legislation is to make the Government Accountability Office (GAO) more efficient by eliminating or reducing its obligation to conduct eight recurring statutorily-required audits and examinations that once served important purposes, but now act as unnecessary consumers of GAO's limited resources.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The GAO aids Congress by, among other things, auditing and examining government programs and reporting to Congress on its findings. GAO's work sometimes results from the requests of Congressional committees or subcommittees, and sometimes it flows directly from a statute mandating GAO to report to Congress on a particular program, often at set intervals and with no end date. Although GAO can work with Congressional requestors to ensure that its work on their request serves Congress's current needs, GAO has little, if any, flexibility with respect to statutory mandates; even if it and relevant Congressional stakeholders agree that the report provides little benefit to Congress. For example, in the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act of 2008 (19 U.S.C. § 2701–§ 2703), Congress included a requirement for GAO to examine an earned import allow-

ance program for Haiti every year. In recent years, however, the program has been virtually inactive, making the report of little value to Congress. Similarly, the Fiscal Year (FY) 2004 Legislative Branch Appropriations Act directed GAO to annually audit the then newly established Senate Preservation Fund—which funds various activities related to works of art, historical objects, documents, and materials relating to historical matters. That Fund, however, spent less than $2,000 in FY 2009 and $3,500 in FY 2010, less than it costs GAO to conduct and report on its audit.

The Committee has concluded that recurring mandates, many of which do not include sunset provisions, should be evaluated from time to time to review the necessity of the report or audit. S. 3315 is not the first time Congress has taken action to revise or eliminate GAO mandates; similar provisions have been included in previous appropriations bills and National Defense Authorization bills. An example of this is Section 1233 of the Fiscal Year 2010 National Defense Authorization Act (P.L. 111–84) which eliminated a requirement that the GAO report quarterly to Congress on the costs of Operation Iraqi Freedom and Operation Enduring Freedom.

Eliminating unnecessary reports not only will take unnecessary work off of GAO's plate; it also will allow GAO to more quickly respond to Congressional requests for assistance in matters of great importance. Statutorily mandated reports and audits take priority over other reports requested by Congress, meaning that statutorily required work, regardless of its importance or urgency, often pushes more pressing and time-sensitive Congressional requests to the back of the queue. This is a particular problem in our current fiscal times; GAO now sits at its lowest staffing level since 1935. As a result, it can take GAO from six to nine months simply *to begin* many new congressionally requested reports.

Last year, GAO initiated a process under which GAO conducted an agency-wide evaluation of its 102 recurring statutory mandates to identify those relating to programs at a low risk of mismanagement or other problems, or where GAO's recurring work otherwise generally added little value to the administration or oversight of the program. After identifying candidates for elimination, GAO worked with the Congressional committees of jurisdiction to determine whether the intended recipients of the reports concurred with GAO's recommendation to either modify or eliminate the statutory mandate.

S. 3315 is the product of that process. It proposes to eliminate or reduce eight statutory mandates for GAO to produce reports that both GAO and the relevant Congressional committees believe are either no longer necessary, or necessary, but on a less frequent basis. For the programs covered under the revised or repealed mandates, Chairs and Ranking Members of Committees and Subcommittees could still request reports on any particular issue of interest. It is worth noting that S. 3315 does not establish any new mandates for GAO, establish any policy or general requirement for the agency, or affect the agency's budget.

III. Legislative History

S. 3315 was introduced by Senators Carper, Collins, and Lieberman on June 20, 2012, and referred to the Senate Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3315 at a business meeting on June 27, 2012, and continued on June 29, 2012. Senator Coburn offered an amendment to require GAO to examine certain aspects of the Office of National Drug Control Policy every three years; the original bill language proposed to dispense with the existing annual examination requirement entirely. The Committee adopted the Coburn amendment by a voice vote on June 27. Senators present for the vote were Lieberman, Akaka, Carper, Collins, Johnson and Portman.

The Committee then ordered S. 3315 reported to the Senate, also by voice vote on June 29. Members present for the vote were Senators Lieberman, Levin, Akaka, Carper, Pryor, Landrieu, Tester, Begich, Collins, Brown, McCain, Johnson, Portman and Moran.

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 Mandates Revision Act of 2012".

Section 2. Repeals and modifications

This section repeals or modifies eight statutory mandates currently imposed on GAO.

Subsection (a) amends the Arizona-Idaho Conservation Act of 1988 (2 U.S.C. § 2084) to change the annual audit of the Capitol Preservation Commission to a periodic one occurring at least once every three years, or more frequently if requested by the Senate Rules or House Administration Committees.

Subsection (b) amends the Federal Courts Administration Act of 1992 (P.L. 102–572 Title II § 201(i)) to repeal the requirement that GAO compute the actuarial liability of the annuity fund every three years. This requirement is duplicative of the work currently being performed by an enrolled actuary and being independently audited by the Administrative Office of the United States Courts.

Subsection (c) amends section 203 of the Reauthorization Act for the Office of National Drug Control Policy of 2006 (21 U.S.C. § 1708a) to modify the annual mandate to review the Office (ONDCP) and instead require an audit in 2013 and every three years thereafter. GAO has reviewed numerous ONDCP programs annually since 2006 and the National Academy of Public Administration has done a comprehensive review of ONDCP Management.

Subsection (d) amends the Veterans' Benefits Act of 2012 (P.L. 111–275; 38 U.S.C. 4301 note) to modify the annual GAO reporting requirement to require instead a single report no later than a year after the commencement of a specific demonstration project.

Subsection (e) amends the Semipostal Authorization Act (P.L. 106–253; 114 Stat. 636; 39 U.S.C. § 416 note) to repeal the requirement that GAO issue interim reports four years after a semipostal stamp is first made available as well as a final report no later than six months before the semipostal stamp's scheduled expiration date.

Subsection (f) amends the Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2008 (19 U.S.C. § 2703a(b)(4)) to strike the annual GAO reporting requirement for the Earned Import Allowance Program. The program has been rel-

atively inactive, with future use of the program expected to be minimal. In addition, the Department of Commerce already collects information on the use of this program.

Subsection (g) amends the Veterans' Benefits Improvements Act of 1996 (36 U.S.C. § 2103(h)) to strike the requirement that GAO conduct an annual audit of the American Battle Monuments Commission's financial statements. The Commission's statements will continue to be audited in accordance with other statutory provisions that make the Commission, like other executive agencies, responsible for having its own audit completed.

Subsection (h) amends the 2004 Legislative Branch Appropriations Act (2 U.S.C. § 2108 (c)(6)) to change the GAO audit of the Senate Preservation Fund from an annual to a periodic one (occurring at least once every three years, or more frequently at the request of the Senate Rules Committee).

V. Evaluation of Regulatory Impact

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and has determined that the bill will have no regulatory impact within the meaning of the Rules. The Committee agrees with CBO's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. Congressional Budget Office Cost Estimate

July 12, 2012.

Hon. Joseph I. Lieberman,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3315, the GAO Mandates Revision Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford,

Sincerely,

Douglas W. Elmendorf.

Enclosure.

S. 3315—GAO Mandates Revision Act of 2012

S. 3315 would reduce the number of reviews and audits conducted by the Government Accountability Office (GAO) for eight specified activities. The Congress often requires that the GAO perform an annual examination of a program, agency, or other federal activity. S. 3315 would modify or repeal a small number of the reviews and audits GAO is required to perform.

CBO estimates that implementing the legislation would have no significant impact on the federal budget. GAO has an annual budget of more than $500 million and prepares hundreds of products for the Congress each year. CBO expects that implementing S. 3315 would not significantly decrease the agency's current workload. Any reduction in the agency's annual cost from implementing S. 3315 would depend on the amounts provided to GAO in future ap-

propriation bills. Enacting S. 3315 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 3315 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

VII. Changes to 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 S. 3315 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):

TITLE 2—THE CONGRESS

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CHAPTER 30—OPERATION AND MAINTENANCE OF CAPITOL COMPLEX

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Subchapter V—Historical Preservation and Fine Arts

* * * * * * *

PART A—UNITED STATES CAPITOL PRESERVATION COMMISSION

* * * * * * *

SEC. 2084. AUDITS BY THE COMPTROLLER GENERAL.

The Comptroller General shall conduct [annual audits of the transactions of the Commission] *periodic audits of the transactions of the Commission, but at least once every three years* and shall report the results of each audit to the Congress[.] *unless the chair or ranking member of the Committee on House Administration or the Senate Committee on Rules and Administration requests that an audit be conducted before the three year period.*

TITLE 2—THE CONGRESS

* * * * * * *

CHAPTER 30—OPERATION AND MAINTENANCE OF CAPITOL COMPLEX

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Subchapter V—Historical Preservation and Fine Arts

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PART B—SENATE COMMISSION ON ART

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SEC. 2108. PROVISIONS RELATING TO SENATE COMMISSION ON ART.

(a) * * *

(b) * * *

(c) ESTABLISHMENT OF SENATE PRESERVATION FUND.—

(1) * * *

(2) * * *

(3) * * *

(4) * * *

(5) * * *

(6) AUDITS.—The Comptroller General shall conduct [annual audits of the transactions of the Senate Preservation Fund] *periodic audits of the transactions of the Senate Preservation Fund, at least once every three years* and shall report the results of each audit to the Congress[.] *unless the chair or ranking member of the Committee on House Administration or the Senate Committee on Rules and Administration requests that an audit be conducted before the three year period.*

TITLE 19—CUSTOMS DUTIES

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CHAPTER 15—CARIBBEAN BASIN ECONOMIC RECOVERY

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SEC. 2703a. SPECIAL RULES FOR HAITI.

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(4) EARNED IMPORT ALLOWANCE RULE

(A) * * *

(B) * * *

[(C) REVIEW BY UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.—The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.]

(*C*)[(D)] ENFORCEMENT PROVISIONS.—

(i) Fraudulent claims of preference. Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18.

(ii) Penalties for other fraudulent information. The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).

TITLE 21—FOOD AND DRUGS

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CHAPTER 22—NATIONAL DRUG CONTROL POLICY

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SEC. 1708. ANNUAL REPORT REQUIREMENT.

(a) IN GENERAL.—On or before February 1, [of each year] *2013 and every three years thereafter*, the Director shall submit a report to Congress that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse;

(5) all contracts entered into with a corporation, partnership, or individual working on behalf of the national media campaign;

(6) specific policies and steps implemented to ensure compliance with title IV of this Act;

(7) steps taken to ensure that the national media campaign will secure, to the maximum extent possible, no cost matches of advertising time and space or in-kind contributions that are directly related to the campaign in accordance with title IV of this Act; and

(8) a review and evaluation of the effectiveness of the national media campaign strategy for the past year.

(b) AUDIT.—The Government Accountability Office shall, [at a frequency of not less than once per year] *not later than December 31, 2013, and every three years thereafter*—

(1) conduct and supervise an audit and investigation relating to the programs and operations of the—

(A) Office; or

(B) certain programs within the Office, including—

(i) the High Intensity Drug Trafficking Areas Program;

(ii) the Counterdrug Technology Assessment Center; or

(iii) the National Youth Anti-drug Media Campaign; and

(2) provide the Director and the appropriate congressional committees with a report containing an evaluation of and recommendations on the—

(A) policies and activities of the programs and operations subject to the audit and investigation;

(B) economy, efficiency, and effectiveness in the administration of the reviewed programs and operations; and

(C) policy or management changes needed to prevent and detect fraud and abuse in such programs and operations.

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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PART I—ORGANIZATION OF COURTS

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CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

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SEC. 376. ANNUITIES FOR SURVIVORS OF CERTAIN JUDICIAL OFFICIALS OF THE UNITED STATES.

[(w) The Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials under subsection (b) during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors' Annuities Fund and if not, then what adjustments in the contribution rates under subsection (b) should be made to achieve that 50 percent figure. The Comptroller General shall report the results of each determination under this subsection to the Congress.**]**

(*w*)**[**(x)**]** In the case of a widow or widower whose annuity under clause (i) or (ii) of subsection (h)(1) is terminated because of remarriage before attaining 55 years of age, the annuity shall be restored at the same rate commencing on the day the remarriage is dissolved by death, divorce, or annulment, if—

(1) the widow or widower elects to receive this annuity instead of any other survivor annuity to which such widow or widower may be entitled, under this chapter or under another retirement system for Government employees, by reason of the remarriage; and

(2) any payment made to such widow or widower under subsection (o) or (p) on termination of the annuity is returned to the Judicial Survivors' Annuities Fund.

(*x*)**[**(y)**]** For each year of Federal judicial service completed, judicial officials who are enrolled in the Judicial Survivors' Annuities System on the date of enactment of the Judicial Survivors Protection Act of 2009 may purchase, in 3-month increments, up to an additional year of service credit, under the terms set forth in this section. In the case of judicial officials who elect to enroll in the Judicial Survivors' Annuities System during the statutory open enrollment period authorized under the Judicial Survivors Protection Act of 2009, for each year of Federal judicial service completed, such an official may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in section 4(a) of that Act.

TITLE 36—PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES AND ORGANIZATIONS

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Subtitle I—Patriotic and National Observances and Ceremonies

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PART B—UNITED STATES GOVERNMENT ORGANIZATIONS INVOLVED WITH OBSERVANCES AND CEREMONIES

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CHAPTER 21—AMERICAN BATTLE MONUMENTS COMMISSION

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SEC. 2103. ADMINISTRATIVE.

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(h) FINANCIAL STATEMENTS AND AUDITS.—[(1)] The Commission shall have a system of financial controls to enable the Commission to comply with the requirements [of paragraph (2) of this subsection] *of section 3515 of title 31, United States Code* and with section 2106(d)(4) of this title.

[(2) The Commission shall—

[(A) by March 1 of each year (beginning with 1998)—

[(i) prepare a financial statement which covers all accounts and associated activities of the Commission for the prior fiscal year and is consistent with the requirements of section 3515 of title 31; and

[(ii) submit the financial statement, together with a narrative summary, to the Committees on Veterans' Affairs of the Senate and House of Representatives; and

[(B) obtain an audit by the Comptroller General of each financial statement prepared under subparagraph (A) of this paragraph, which shall be conducted in accordance with applicable generally accepted government auditing standards and shall be in lieu of any audit otherwise required by law.]

TITLE 38—VETERANS' BENEFITS

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

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Subchapter I—General

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SEC. 4301. PURPOSES; SENSE OF CONGRESS.

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NOTE: DEMONSTRATION PROJECT FOR REFERRAL OF USERRA CLAIMS AGAINST FEDERAL AGENCIES TO THE OFFICE OF SPECIAL COUNSEL

(g) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—The Comptroller General shall review the relative performance of the Office of Special Counsel and the Department of Labor under the demonstration project and—

(1) not later than one year after the commencement of the demonstration project, [and annually thereafter during the period when the demonstration project is conducted,] submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the demonstration project; and

TITLE 39—POSTAL SERVICE

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PART I—GENERAL

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CHAPTER 4—GENERAL AUTHORITY

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§ 416. Authority to issue Semipostals

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[NOTE: REPORTS BY THE GOVERNMENT ACCOUNTABILITY OFFICE]

[(1) INTERIM REPORT.—The Government Accountability Office shall submit to the President and each House of Congress an interim report on the operation of the program established under section 416 of title 39, United States Code (as amended by this section) not later than 4 years after semipostals are first made available to the public under such section.

[(2) FINAL REPORT.—The Government Accountability Office shall transmit to the President and each House of Congress a final report on the operation of the program established under such section 416, not later than 6 months before the date on which it is scheduled to expire. The final report shall contain a detailed statement of the findings and conclusions of the Government Accountability Office, together with any recommendations it considers appropriate.]

○