

GOVERNMENT CHARGE CARD ABUSE PREVENTION ACT
OF 2011

JANUARY 27, 2012.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

[To accompany S. 300]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (S. 300) to prevent abuse of Government
charge cards, having considered the same, report favorably thereon
without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

While the use of charge cards has saved the Federal Government
both time and money relative to a paper reimbursement system, a
small number of federal employees have abused their purchase and
travel card privileges, resulting in unnecessary and sometimes
fraudulent expenses. Numerous Government Accountability Office
(GAO) and inspectors general reports over the last decade have

called for additional controls to prevent waste, fraud, and abuse in the government charge card program. The Government Charge Card Abuse Prevention Act of 2011, S. 300, requires the Federal Government to improve the way it manages purchase cards.

BACKGROUND AND NEED FOR LEGISLATION

Executive Order 12352 directed agencies to develop programs simplifying the procurement of relatively lower-cost goods and services.¹ Executive Order 12931 directed agency heads to expand the use of government purchase cards.² Each agency is responsible for establishing its own purchase card program, within Office of Management and Budget (OMB) guidance,³ using services negotiated by the General Services Administration (GSA). The Federal Government's purchase card program is designed to streamline the purchase of goods and services.

Since 1988, federal employees have been required to use government charge cards for expenses associated with official government travel.⁴ Each agency is responsible for establishing its own travel card program, which includes both individually and centrally billed accounts. Centrally billed accounts are held by the agency, while individually held accounts are held by employee cardholders.

While government charge cards have streamlined micropurchases and travel expenses, government auditors have over the years documented fraudulent and questionable purchases made by federal workers, including kitchen appliances, cruises, and even the tab at gentlemen's clubs. In 2008, GAO estimated that nearly 41 percent of purchase card transactions failed to meet basic internal control standards.⁵

The Committee believes the Federal Government must improve the way it manages charge cards used by federal employees. S. 300, based largely on GAO's recommendations, requires agencies to improve their internal controls for government charge cards, including the use of appropriate disciplinary action for employees who abuse charge card privileges. The legislation also will help ensure the Federal Government benefits from prompt payment rebates available from charge card vendors.

LEGISLATIVE HISTORY

The Federal Acquisition Streamlining Act streamlined the administrative costs and burden associated with relatively low-cost government purchases.⁶ The Travel and Transportation Reform Act of 1998 required federal employees to use travel charge cards to cover expenses associated with official government travel.⁷ Section 738 of the Consolidated Appropriations Act, 2010, required agencies to evaluate the credit worthiness of an individual before issuing a government travel card and to establish procedures for

¹ Executive Order 12352, Federal Procurement Reforms, 47 Federal Register 12125, March 22, 1982.

² Executive Order 12931, Federal Procurement Reform, 59 Federal Register 52387, October 17, 1994.

³ Office of Management and Budget, Management's Responsibility for Internal Control, Circular No. A-123, available at <http://www.whitehouse.gov/omb/circulars/a123/a123--appendix-b.pdf>.

⁴ P.L. 105-264.

⁵ GAO-08-333.

⁶ P.L. 103-355.

⁷ P.L. 105-264.

taking disciplinary actions against employees for improper or fraudulent use of cards.⁸

The Department of Defense is already subject to specific purchase card guidance.⁹ The National Defense Authorization Act for Fiscal Year 2000¹⁰ and the Bob Stump National Defense Authorization Act for Fiscal Year 2003¹¹ mandated that the Department of Defense implement many of the safeguards and internal controls for purchase cards instituted by S.300.

S. 300 was introduced by Senator Chuck Grassley of Iowa on February 8, 2011. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs, which favorably reported the bill by voice vote, without amendment, on April 13, 2011.

The legislation was originally introduced in the 111th Congress as S. 942 on April 30, 2009, favorably reported by the Senate Committee on Homeland Security and Governmental Affairs on May 29, 2009, and passed by the Senate by unanimous consent on October 7, 2009. Subsequently, S. 942 was referred to the House Committees on Oversight and Government Reform and Armed Services. Companion legislation, H.R. 2189, was introduced in the House by Representative Joe Wilson (SC-2) on April 30, 2009, and referred to the House Committees on Oversight and Government Reform and Armed Services. No further action was taken on S. 942 or H.R. 2189.

SECTION-BY-SECTION

Section 1. Short title

Designates the name of the act as the “Government Charge Card Abuse Prevention Act of 2011.”

Section 2. Management of purchase cards

Agencies are to establish and maintain safeguards and internal controls for purchase cards, including: (1) keeping a record of each card holder and associated transaction limits; (2) requiring approval and reconciliation of transactions; (3) ensuring timely and accurate payment; (4) providing appropriate training to cardholders and administrators; and (5) recovering erroneous, improper, or illegal purchases. The Office of Management and Budget (OMB) reviews existing guidance and prescribes additional guidance as necessary.

Agencies are to take appropriate adverse personnel actions, including dismissal, for employees who violate purchase card guidelines or make erroneous, improper, or illegal purchases.

Agencies with annual purchase card transactions totaling more than \$10 million must report to OMB on purchase card violations. The report must be jointly submitted with the agency inspector general on a semi-annual basis. Agency inspectors general will conduct periodic assessments of purchase card programs, report to the agency head on the findings, and report to OMB on implementation of any agency recommendations based on the findings.

⁸P.L. 111-117.

⁹10 U.S.C. 2784.

¹⁰P.L. 106-65.

¹¹P.L. 107-314.

The Department of Defense remains subject to existing statutory guidance for purchase card use in section 2784 of title 10, United States Code, with additional internal controls similar to those proposed for other agencies in the bill. The Department of Defense Inspector General will conduct periodic assessments of purchase card use, reporting jointly with the Secretary of Defense to OMB.

Section 3. Management of travel cards

Agencies are to establish and maintain internal controls for travel cards, including: (1) keeping a record of each card holder and associated transaction limits; (2) ensuring appropriate credit of rebates and refunds for prompt payment and transaction volume; (3) providing appropriate training to cardholders and administrators; and (4) evaluating the creditworthiness of employees before issuance. OMB establishes a minimum credit score for determining the creditworthiness of an employee. Agencies may issue a restricted use travel card to an employee who lacks a credit history or has a credit score below the OMB minimum. OMB reviews existing guidance and prescribes additional guidance as necessary.

Agencies are to take appropriate adverse personnel actions, including removal, for employees who violate travel card guidelines or commit fraud.

Agencies with annual travel card transactions totaling more than \$10 million must report to OMB on purchase card violations. The report must be jointly submitted with the agency inspector general on a semi-annual basis. Agency inspectors general will conduct periodic assessments of travel card programs, report to the agency head on the findings, and report to OMB on implementation of any agency recommendations based on the findings.

Section 4. Management of centrally billed accounts

Agencies with employees who use centrally billed travel cards are to establish and maintain internal controls to guard against duplicate payment of charges and secure refunds of fully or partially used airline tickets. OMB is to review existing guidance and prescribes additional guidance as necessary.

Section 5. Construction

Agency heads remain subject to existing financial management responsibilities in section 3512 of title 31, United States Code and the Improper Payments Act of 2002 at 3321 note of title 31, United States Code.

EXPLANATION OF AMENDMENTS

No amendments were adopted during Committee consideration of S. 300. Representative Blake Farenthold (TX-27) filed but did not offer an amendment that would prohibit state and local governments from imposing taxes on federal employee travel expenses, making any revenues subject to collection under the Improper Payments Elimination and Recovery Act of 2010.¹²

¹²P.L. 111-204.

COMMITTEE CONSIDERATION

On October 13, 2011, the Committee met in open session and ordered reported favorably the bill, S. 300 by unanimous consent, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill requires the federal government to improve the way it manages purchase cards. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

S. 300 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out S. 300. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for S. 300 from the Director of Congressional Budget Office:

November 30, 2011.

Hon. DARRELL ISSA,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 300, the Government Charge Card Abuse Prevention Act of 2011.

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. 300—Government Charge Card Abuse Prevention Act of 2011

S. 300 would require each executive branch agency to establish controls regarding the use of government credit cards issued to federal employees. The bill would require each agency's inspector general (IG) to assess the risk of illegal or improper credit card use and to conduct periodic audits to identify potentially fraudulent activities. The bill also would allow agencies to dismiss employees who are found guilty of misusing government credit cards.

CBO estimates that implementing S. 300 would cost less than \$500,000 a year, subject to the availability of appropriated funds. The bill also could affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting S. 300 would not affect revenues.

Under current law, agencies are required to manage the use of government credit cards by establishing policies and procedures, conducting oversight, and penalizing unauthorized use of government cards. Most of the provisions of S. 300 would codify those current policies and practices. Based on information from the Office of Management and Budget (which sets procurement policy), the General Services Administration (the contract administrator for federal credit cards), and several agency IGs, CBO estimates that implementing the bill would lead to a small increase in the administrative costs to oversee the use of government charge cards.

S. 300 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.

On April 26, 2011, CBO transmitted a cost estimate for S. 300 as ordered reported by the Senate Committee on Homeland Secu-

ity and Governmental Affairs on April 13, 2011. The two pieces of legislation are similar and CBO’s estimated costs are the same.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

SUBTITLE A—GENERAL MILITARY LAW

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**PART IV—SERVICE, SUPPLY, AND
PROCUREMENT**

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CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

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§ 2784. Management of purchase cards

(a) * * *

(b) **REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.**—Regulations under subsection (a) shall include safeguards and internal controls to ensure the following:

(1) * * *

* * * * *

(11) That each purchase cardholder and individual issued a convenience check is assigned an approving official other than the cardholder with the authority to approve or disapprove transactions.

(12) That the Department of Defense utilizes effective systems, techniques, and technologies to prevent or identify fraudulent purchases.

(13) That the Department of Defense takes appropriate steps to invalidate the purchase card of each employee who—

(A) ceases to be employed by the Department of Defense, immediately upon termination of the employment of the employee; or

(B) transfers to another unit of the Department of Defense immediately upon the transfer of the employee unless the Secretary of Defense determines that the units are covered by the same purchase card authority.

(14) That the Department of Defense takes appropriate steps to recover the cost of any erroneous, improper, or illegal pur-

chase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

(15) That the Inspector General of the Department of Defense conducts periodic assessments of purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments and uses such risk assessments to develop appropriate recommendations for corrective actions.

* * * * *

(d) SEMIANNUAL REPORT.—The Secretary of Defense and the Inspector General of the Department of Defense, shall submit to the Director of the Office of Management and Budget on a semiannual basis a joint report on illegal, improper, or erroneous purchases and payments made with purchase cards or convenience checks by employees of the Department of Defense. At a minimum, the report shall include the following:

(1) A description of each violation.

(2) A description of any adverse personnel action, punishment, or other action taken against the employee for such violation.

(3) A description of actions taken by the Department of Defense to address recommendations made to address findings arising out of risk assessments and audits conducted pursuant to this section.

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SECTION 2 OF THE TRAVEL AND TRANSPORTATION REFORM ACT OF 1998

SEC. 2. REQUIRING USE OF THE TRAVEL CHARGE CARD.

(a) * * *

* * * * *

(h) MANAGEMENT OF TRAVEL CHARGE CARDS.—

(1) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that has employees that use travel charge cards shall establish and maintain the following internal control activities to ensure the proper, efficient, and effective use of such travel charge cards:

(A) There is a record in each executive agency of each holder of a travel charge card issued on behalf of the agency for official use, annotated with the limitations on amounts that are applicable to the use of each such card by that travel charge cardholder.

(B) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on travel charge card accounts are monitored for accuracy and properly recorded as a receipt of the agency that employs the cardholder.

(C) Periodic reviews are performed to determine whether each travel charge cardholder has a need for the travel charge card.

(D) Appropriate training is provided to each travel charge cardholder and each official with responsibility for

overseeing the use of travel charge cards issued by the executive agency.

(E) Each executive agency has specific policies regarding the number of travel charge cards issued for various component organizations and categories of component organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued travel charge cards, and designs those policies to minimize the financial risk to the Federal Government of the issuance of the travel charge cards and to ensure the integrity of travel charge cardholders.

(F) Each executive agency ensures its contractual arrangement with each servicing travel charge card issuing contractor contains a requirement to evaluate the creditworthiness of an individual before issuing that individual a travel charge card, and that no individual be issued a travel charge card if that individual is found not creditworthy as a result of the evaluation (except that this paragraph shall not preclude issuance of a restricted use travel charge card or pre-paid card when the individual lacks a credit history or has a credit score below the minimum credit score established by the Office of Management and Budget). The Director of the Office of Management and Budget shall establish a minimum credit score for determining the creditworthiness of an individual based on rigorous statistical analysis of the population of cardholders and historical behaviors. Notwithstanding any other provision of law, such evaluation shall include an assessment of an individual's consumer report from a consumer reporting agency as those terms are defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).

(G) Each executive agency utilizes effective systems, techniques, and technologies to prevent or identify improper purchases.

(H) Each executive agency ensures that the travel charge card of each employee who ceases to be employed by the agency is invalidated immediately upon termination of the employment of the employee.

(I) Each executive agency utilizes, where appropriate, direct payment to the holder of the travel card contract.

(2) GUIDANCE ON MANAGEMENT OF TRAVEL CHARGE CARDS.— Not later than 180 days after the date of the enactment of the Government Charge Card Abuse Prevention Act of 2011, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies governing the implementation of the requirements in paragraph (1).

(3) PENALTIES FOR VIOLATIONS.—

(A) IN GENERAL.—Consistent with the guidance prescribed under paragraph (2), each executive agency shall provide for appropriate adverse personnel actions to be imposed in cases in which employees of the executive agency fail to comply with applicable travel charge card terms and conditions or applicable agency regulations or commit

fraud with respect to a travel charge card, including removal in appropriate cases.

(B) REPORTS ON VIOLATIONS.—The guidance prescribed under paragraph (2) shall require each head of an executive agency with more than \$10,000,000 in travel card spending annually, and each inspector general of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by subparagraph (A) by employees of such executive agency. At a minimum, the report shall set forth the following:

(i) A description of each violation.

(ii) A description of any adverse personnel action, punishment, or other action taken against the employee for such violation or other action.

(4) RISK ASSESSMENTS AND AUDITS.—The inspector general of each executive agency shall—

(A) conduct periodic assessments of the agency travel charge card program and associated internal controls to identify and analyze risks of illegal, improper, or erroneous travel charges and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of travel charge card transactions;

(B) perform periodic analysis and audits, as appropriate, of travel charge card transactions designed to identify potentially improper, erroneous, and illegal uses of travel charge cards;

(C) report to the head of the executive agency concerned on the results of such analysis and audits; and

(D) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of travel charge card transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

(5) DEFINITIONS.—In this subsection:

(A) The term “executive agency” means an agency as that term is defined in subparagraphs (A) and (B) of section 5701(1) of title 5, United States Code.

(B) The term “travel charge card” means any Federal contractor-issued travel charge card that is individually billed to each cardholder.