

TREATMENT OF CERTAIN PAYMENTS UNDER NATIONAL
FLOOD INSURANCE PROGRAM

APRIL 14, 2005.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 804]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 804) to exclude from consideration as income certain payments under the national flood insurance program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of the bill is to exclude from consideration as income certain payments under the national flood insurance program.

BACKGROUND AND NEED FOR LEGISLATION

Congress created the National Flood Insurance Program (NFIP) in 1968 to address the increasing costs of taxpayer-funded disaster relief for flood victims and the increasing amount of damage caused by floods. The Federal Emergency Management Agency (FEMA) administers the NFIP. Home and business owners are able to purchase flood insurance if their properties are located in communities that adopt and enforce floodplain management ordinances to reduce future flood damage. One of the objectives of the NFIP is to make flood insurance affordable, so full actuarial rates are not charged.

The Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108-264) was signed into law on June 30, 2004. This legislation, sponsored by Sen. Jim Bunning (KY), Rep. Doug Bereuter (NE) and Rep. Earl Blumenauer (OR), reauthorized the NFIP until 2008 and established a pilot program for the mitigation of severe repetitive loss properties, which FEMA estimates cost the program \$200 million annually.

The Bunning-Bereuter-Blumenauer law primarily addresses the problem of repetitive loss properties through flood mitigation. The pilot program authorized in the legislation requires people to either accept mitigation assistance or face significantly higher premiums. Owners who refuse assistance will no longer be eligible for subsidized flood insurance far below the actuarial risk rate they should be paying. Over time, as mitigation grants and preventative measures change the nature of repetitive loss properties, the NFIP is expected to save a significant amount of money.

H.R. 804, introduced on February 15, 2005, will prevent federal agencies that administer means-tested or income-tested benefits from considering NFIP mitigation grants as income. H.R. 804 is necessary due to an Internal Revenue Service (IRS) ruling in July 2004 that such grants must be reported as income for tax purposes. This IRS ruling has caused significant uncertainty in the administration of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004. Anecdotal information has revealed that a significant number of homeowners have refused mitigation offers not only due to the fear of a potential tax liability, but also the potential for other unknown liabilities imposed by other federal government agencies. These penalties could include the loss of certain federal education, nutrition and health care benefits. H.R. 804 eliminates the potential for additional penalties by preventing federal government agencies (other than the IRS) from considering NFIP flood mitigation grants as income.

The precedent for this exception is found in the Stafford Act, which explicitly states that any disaster or pre-disaster mitigation payments made to homeowners under that Act are not to be considered as income by any federal agency administering a means- or income-tested benefit. By incorporating this language in the National Flood Insurance Act, H.R. 804 will resolve any additional uncertainty by likewise preventing federal agencies from considering flood mitigation grants as income.

HEARINGS

There were no hearings held on this legislation.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 16, 2005, and ordered H.R. 804 reported by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. No amendments were considered by the Committee. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings previously and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The bill clarifies existing law to ensure that certain payments under the national flood insurance program are not treated as income by federal agencies administering means-tested or income-tested benefit programs, thus reducing the potential for unknown consequences under other statutes.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 31, 2005.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 804, a bill to exclude from consideration as income certain payments under the national flood insurance program.

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

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin).

Enclosure.

H.R. 804—A bill to exclude from consideration as income certain payments under the national flood insurance program

If H.R. 804 were enacted, payments made under the National Flood Insurance Program for flood mitigation activities would not be counted as income or resources when determining eligibility for any federal means-tested program. The Federal Emergency Management Agency (FEMA) awards grants to states and communities, which in turn distribute funds to individuals and businesses, for activities that reduce the risk of repetitive flood damage to buildings. Data from FEMA show that the average approved award is about \$53,000.

CBO expects that enacting this bill would increase the number of persons eligible for Food Stamp and Medicaid benefits. Currently, flood mitigation grants are counted as income or resources by these programs and make some people ineligible for benefits or reduce the amount of their benefit. CBO estimates that spending for these programs together would increase by about \$1 million a year and \$10 million over the 2006–2015 period. Enacting the bill would not affect revenues.

H.R. 804 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The increase in the number of people eligible for Medicaid benefits would result in additional spending by states totaling about \$4 million over the 2006–2015 period.

The CBO staff contacts for this estimate are Kathleen FitzGerald (for federal costs); Leo Lex (for the impact on state, local, and tribal governments); and Paige Piper/Bach (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Treatment of Certain Payments Under National Flood Insurance Program

This section adds a new section to the National Flood Insurance Act of 1968 to provide that assistance provided under the National Flood Insurance Program for flood mitigation activities shall not be considered income or a resource of the owner (or any lessee or user) of the property when determining eligibility for or benefit levels under any income assistance or resource-tested program that is funded in whole or in part by an agency of the United States or by appropriated funds of the United States.

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):

**SECTION 1324 OF THE NATIONAL FLOOD INSURANCE
ACT OF 1968**

TREATMENT OF CERTAIN PAYMENTS

SEC. 1324. Assistance provided under a program under this title for flood mitigation activities (including any assistance provided under the mitigation pilot program under section 1361A, any assistance provided under the mitigation assistance program under section 1366, and any funding provided under section 1323) with respect to a property shall not be considered income or a resource of the owner (or any lessee or user) of the property when determining eligibility for or benefit levels under any income assistance or resource-tested program that is funded in whole or in part by an agency of the United States or by appropriated funds of the United States.