

HURRICANE CHECK CASHING RELIEF ACT OF 2005

DECEMBER 6, 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. 3909]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3909) to provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the Board of Governors of the Federal Reserve System, to guarantee checks cashed by insured depository institutions and insured credit unions for the benefit of noncustomers who are victims of certain 2005 hurricanes, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment .....	2
Purpose and Summary .....	4
Background and Need for Legislation .....	4
Hearings .....	5
Committee Consideration .....	6
Committee Votes .....	6
Committee Oversight Findings .....	6
Performance Goals and Objectives .....	7
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	7
Committee Cost Estimate .....	7
Congressional Budget Office Estimate .....	7
Federal Mandates Statement .....	11
Advisory Committee Statement .....	11
Constitutional Authority Statement .....	11
Applicability to Legislative Branch .....	11
Section-by-Section Analysis of the Legislation .....	11
Changes in Existing Law Made by the Bill, as Reported .....	12

## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE, PURPOSE.**

(a) **SHORT TITLE.**—This Act may be cited as the “Hurricane Check Cashing Relief Act of 2005”.

(b) **PURPOSE.**—The purpose of this Act is to reduce the suffering and financial difficulties of victims of 2005 hurricanes—

(1) whose home insured depository institutions and insured credit unions, or the insured depository institution or insured credit union on which any check or share draft payable to any such victim is drawn, are closed, or whose records are otherwise inaccessible, due to certain 2005 hurricanes;

(2) who lack access to operating automated teller machines for whatever reason as a result of any such hurricane, including inoperable payment networks;

(3) who lack some or all of the requisite forms of identification necessary to cash their own or a third-party check or share draft; or

(4) who are otherwise unable, by reason of any such hurricane, to access amounts on deposit at an insured depository institution or insured credit union.

**SEC. 2. EMERGENCY AUTHORITY TO GUARANTEE CHECKS CASHED FOR VICTIMS OF CERTAIN 2005 HURRICANES.**

(a) **FDIC.**—

(1) **IN GENERAL.**—Subject to subsection (d), the Federal Deposit Insurance Corporation shall establish, in accordance with emergency guidance issued by the Board of Governors of the Federal Reserve System under subsection (d)(1), an emergency program under which an insured depository institution may obtain, subject to subsection (d)(2), a commitment from the Corporation to indemnify the insured depository institution for any loss suffered by the institution through cashing a check or share draft that—

(A) is presented for payment by any individual who, as of August 25, 2005, resided in the State of Florida, Alabama, Mississippi, Louisiana, or Texas in an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, determined, on or after August 25, 2005, that a major disaster exists; and

(B) is subsequently uncollectible, in an amount not to exceed \$2,000 for each such check or share draft.

(2) **SOURCE OF FUNDS FOR PAYMENTS.**—Any payments required to be made by the Corporation pursuant to a commitment under paragraph (1) to an insured depository institution shall be drawn from funds available for such purposes under subsection (c).

(b) **NCUA.**—

(1) **IN GENERAL.**—Subject to subsection (d), the National Credit Union Administration shall establish, in accordance with emergency guidance issued by the Board under subsection (d)(1), an emergency program under which an insured credit union may obtain, subject to subsection (d)(2), a commitment from the Administration to indemnify the insured credit union for any loss suffered by the credit union through cashing a share draft or check that—

(A) is presented for payment by any individual who, as of August 25, 2005, resided in the State of Florida, Alabama, Mississippi, Louisiana, or Texas in an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, determined, on or after August 25, 2005, that a major disaster exists; and

(B) is subsequently uncollectible, in an amount not to exceed \$2,000 for each such check or share draft

(2) **SOURCE OF FUNDS FOR PAYMENTS.**—Any payments required to be made by the National Credit Union Administration pursuant to a commitment under paragraph (1) to an insured credit union shall be drawn from funds available for such purposes under subsection (c).

(3) **LIMITED EXTENSION OF CHECK CASHING SERVICES.**—Notwithstanding any limitation in section 107(12) of the Federal Credit Union Act with regard to field of membership, an insured credit union may cash any check presented for payment by any individual described in paragraph (1)(A).

(c) **REIMBURSEMENT FROM FEDERAL RESERVE SURPLUSES.**—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

“(4) **ADDITIONAL TRANSFERS TO COVER CERTAIN RELIEF EFFORTS RESULTING FROM HURRICANES OF 2005.**—

“(A) IN GENERAL.—Subject to subparagraph (C), from the surplus funds of the Federal reserve banks maintained pursuant to subsection (a)(2), the Federal reserve banks shall transfer to the Board of Governors of the Federal Reserve System for transfer to the Federal Deposit Insurance Corporation and the National Credit Union Administration, such sums as are necessary to meet any payments required under subsection (a)(1) or (b)(1) of section 2 of the Hurricane Check Cashing Relief Act. In the event that the total amount of requests for indemnification received by the Federal Deposit Insurance Corporation and the National Credit Union Administration exceed the maximum amount specified under subparagraph (C), the sums transferred to the Federal Deposit Insurance Corporation and the National Credit Union Administration, respectively, shall be in proportion to the amount of payments required under subsection (a)(1) and (b)(1) of section 2 of the Hurricane Check Cashing Relief Act of 2005, respectively.

“(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay.

“(C) MAXIMUM AMOUNT.—The total amount transferred under subparagraph (A) from all Federal reserve banks shall not exceed \$200,000,000.

“(D) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank’s surplus fund by the amount of any transfer by such bank under subparagraph (A).”.

(d) EMERGENCY GUIDANCE AND LIMITATIONS.—

(1) IN GENERAL.—The Board, after consulting the Federal Deposit Insurance Corporation and the National Credit Union Administration, shall, upon the enactment of this Act, promptly issue appropriate guidance—

(A) to carry out the purposes of this section and administer the programs established in accordance with this section;

(B) to reduce the incidence of fraud and any other cause of loss to the greatest extent possible, consistent with the purpose of this Act;

(C) to require insured depository institutions and insured credit unions to exercise due diligence in determining the eligibility of any check presented by any individual for indemnification under this section, including such measures as verification of Social Security numbers and other identifying information as the Board may determine to be practicable;

(D) to provide insured depository institutions and insured credit unions with reasonable guidance, in light of the emergency circumstances presented by certain 2005 hurricanes, so as to meet the requirements for indemnification under this section, including the sharing of information on checks that have been presented for indemnification; and

(E) notwithstanding any Federal or State law, to provide for the right of the Board of Governors of the Federal Reserve System, on behalf of the Federal reserve banks and through the Federal Deposit Insurance Corporation and the National Credit Union Administration, to recover from any insured depository institution or insured credit union the amount of any indemnification paid to such depository institution or credit union with respect to any check, to the extent of the amount so paid, if the insured depository institution or insured credit union collects on the check.

(2) COMPLIANCE WITH GUIDANCE CONDITION.—The emergency guidance issued under paragraph (1) shall require any insured depository institution or insured credit union seeking a commitment under subsection (a)(1) or (b)(1) to demonstrate that the institution or credit union is in compliance with the guidance in such manner as the Board determines to be appropriate and practicable.

(3) PER INDIVIDUAL PER INSTITUTION LIMITATION.—No specific insured depository institution or insured credit union may be indemnified for losses in excess of \$2,000 with respect to checks and share drafts presented by any one individual.

(e) DEFINITIONS.—For purposes of this Act, the following definitions shall apply:

(1) BOARD.—The term “Board” means the Board of Governors of the Federal Reserve System.

(2) INSURED CREDIT UNION.—The term “insured credit union” has the same meaning as in section 101 of the Federal Credit Union Act.

(3) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(f) RULE OF CONSTRUCTION.—No provision of this section shall be construed as affecting any right or obligation of an insured depository institution or insured credit union to take any action against any person in connection with a fraudulent check,

a fraudulent negotiation of a check, or any other intentional act of a fraudulent or deceptive nature.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the provisions of this section shall apply to checks or share drafts presented to an insured depository institution or an insured credit union during the period beginning on August 25, 2005, and ending November 15, 2005.

(2) LIMITED EXTENSION.—The period described in paragraph (2) may be extended once for an additional 60 days if—

(A) the Board, after consulting with the Federal Deposit Insurance Corporation and the National Credit Union Administration, determines that the continuing impact of the 2005 hurricane disasters on financial intermediation between consumers and financial institutions, on payment networks, and on other forms of communication require an extension of the programs established under this section in order to continue to meet the immediate needs of victims of the disaster; and

(B) notice of such determination is published in the Federal Register at least 5 days before the end of the period described in paragraph (1).

#### PURPOSE AND SUMMARY

H.R. 3909, The Hurricane Check Cashing Relief Act, as amended, will provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the Board of Governors of the Federal Reserve System, to guarantee checks or share drafts cashed by insured depository institutions and insured credit unions for the benefit of customers who are victims of certain 2005 hurricanes. Specifically, H.R. 3909, as amended, provides certain financial institutions the incentive to continue their work with the victims of the recent hurricanes by indemnifying federally insured banks and credit unions that cash fraudulent or non-sufficient fund checks or share drafts. Institutions must continue to use due diligence in ensuring that checks or share drafts are legitimate and are collectable.

The bill, as amended, provides that up to \$200 million from the Federal Reserve Bank's surplus fund is available to indemnify federally insured financial institutions that may receive up to \$2,000 for any check or share draft presented by any one individual who has resided in the areas affected by Hurricanes Katrina, Rita and Wilma, that is subsequently uncollectible between August 25, 2005, and November 15, 2005.

#### BACKGROUND AND NEED FOR LEGISLATION

In 2005, numerous hurricanes have resulted in tremendous harm and damage to Alabama, Florida, Louisiana, Mississippi, and Texas. It has been estimated that over one million people have been displaced because of these hurricanes and approximately 500,000 individuals may have lost their jobs. While the economic impact is still being estimated, the displacement of people and the large number of affected insured credit unions and insured depository institutions have made access to cash, credit, social security checks and other financial services very difficult. The situation has been further complicated by the victim's loss of their personal identification and financial records.

In early September, 2005, the House Financial Services Committee held a briefing for members by the financial services industry and Federal financial regulators in the aftermath of Hurricane Katrina to provide an outline of relief efforts. The Committee also

held two hearings in response to Hurricane Katrina in September, 2005. The Financial Institutions and Consumer Credit Subcommittee held a hearing on September 14, 2005, that focused on the financial services response to Hurricane Katrina and regulatory and legislative relief recommendations to facilitate their efforts. The Housing and Community Opportunity Subcommittee held a hearing on September 15, 2005, that focused on the critical housing needs in the aftermath of Hurricane Katrina industry's relief efforts. Many recommendations were provided to the Committee at these hearings and H.R. 3909 addresses some of these suggestions.

The bill is intended to reduce the suffering and financial difficulties for those victims of the 2005 hurricanes who are unable to access their home insured depository institutions or insured credit unions, who cannot utilize their ATMs, who lack some or all of the requisite forms of identification to cash checks or share drafts, and who cannot access their deposits at an insured depository institution or insured credit union by guaranteeing their ability to cash checks or insured share drafts up to \$2,000 at insured depository institutions and insured credit unions.

#### HEARINGS

The Subcommittee on Financial Institutions and Consumer Credit held a hearing on September 14, 2005, on "Hurricane Katrina: The Financial Institutions' Response." The following witnesses testified:

Mr. McKinley W. "Mac" Deaver, Executive Director, Mississippi Bankers Association, representing American Bankers Association;

Mr. Ken Bordelon, President and CEO, E Federal Credit Union (LA), representing National Association of Federal Credit Unions;

Mr. C. R. "Rusty" Cloutier, President and CEO, MidSouth Bank, N.A. (LA), representing Independent Community Bankers of America;

Mr. Charles Elliott, President and CEO, Mississippi Credit Union Association, representing Credit Union National Association;

Ms. Diane Casey-Landry, President and CEO, America's Community Bankers;

Mr. David Gibbons, Senior Executive Vice President and Chief Risk Officer, HSBC North America (IL), representing American Financial Services Association; and

Mr. Hilary Shelton, Director, Washington Bureau, NAACP.

The Subcommittee on Housing and Community Opportunity held a hearing on September 15, 2005, on "Emergency Housing Needs in the Aftermath of Hurricane Katrina." The following witnesses testified:

Mr. Henry A. Alvarez III, President and CEO, San Antonio Housing Authority, San Antonio, TX, testifying on behalf of National Association of Housing and Redevelopment Officials;

Ms. Sharon M. Daly, Senior Advisor for Public Policy, Catholic Charities USA;

Ms. J. K. Huey, Senior Vice President, IndyMac Bank, Pasadena, CA, testifying of behalf of the Mortgage Bankers Association;

Ms. Kay Miller, President, T.A. Miller, Inc. and Tra-Dor, Inc.; Management, Shreveport, LA, testifying on behalf of the Council for Affordable and Rural Housing;

Mr. David A. Roberson, President and CEO, Cavalier Homes, Inc., Addison, AL, testifying on behalf of Manufactured Housing Institute and the Manufactured Housing Association for Regulatory Reform;

Ms. Nan P. Roman, President, National Alliance to End Homelessness;

Ms. Barbara Thompson, Executive Director, National Council of State Housing Agencies;

Mr. David F. Wilson, Homebuilder, Ketchum, ID, President, National Association of Home Builders;

Mr. Clanton Beamon, Executive Director, Delta Housing Development Corporation, Indianola, MS, testifying on behalf of the National Rural Housing Coalition;

Mr. Jeffrey I. Brodsky, President, Related Management Company, LLC, New York City, NY, testifying on behalf of the National Multi Housing Council and National Leased Housing Association;

Ms. Judith A. Kennedy, President and CEO, National Association of Affordable Housing Lenders;

Ms. Michelle Norris, Senior Vice President of Development, National Church Residences, testifying on behalf of the American Association of Homes and Services for the Aging;

Ms. Ellen Lee, Deputy Executive Assistant for Neighborhood Development, City of New Orleans, LA, testifying on behalf of the National Community Development Association (submitted for the record); and

National Association of Realtors (submitted for the record).

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 27, 2005, and ordered H.R. 3909, the Hurricane Check Cashing Relief Act of 2005, favorably reported to the House with an amendment by 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. An amendment in the nature of a substitute offered by Mr. Bachus, No. 1, making various technical and substantive changes to the bill, was agreed to by voice vote. A motion by Mr. Oxley to report the bill, as amended, 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 held hearings 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:

This bill provides emergency authority for regulators to guarantee checks cashed by insured depository institutions and credit unions for the benefit of individuals who resided in the areas affected by Hurricanes Katrina, Rita, and Wilma as of August 25, 2005, in order to assist in the recovery from the destructive hurricanes of 2005.

## 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 adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

## 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, November 30, 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. 3909, the Hurricane Check Cashing Relief Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kathleen Gramp (for federal costs) and Barbara Edwards (for federal revenues).

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 3909—Hurricane Check Cashing Relief Act of 2005*

Summary: H.R. 3909 would direct the Federal Deposit Insurance Corporation (FDIC) and National Credit Union Administration (NCUA) to indemnify insured financial institutions for any losses resulting from certain uncollectible checks presented by individuals

who resided in areas designated as disaster areas after August 25, 2005. This indemnification would apply to checks presented to those institutions from August 25, 2005, through November 15, 2005. Indemnification would be limited to \$2,000 per individual. Under the bill, the Federal Reserve would be required to transfer up to \$200 million from its surplus to cover the indemnification payments.

CBO estimates that enacting this bill would increase direct spending for indemnification payments by about \$120 million over the 2006–2007 period. Those outlays would be initially offset by a transfer of \$120 million from the Federal Reserve. Such transfers are recorded in the budget as an increase in revenues. However, monies transferred from the surplus of the Federal Reserve would no longer be invested in securities and would no longer earn interest that otherwise would be transferred to the Treasury—as the Federal Reserve routinely does each year. CBO estimates that the interest earnings forgone would reduce revenues by about \$1 million in 2006, \$3 million in 2007, and \$6 million each year thereafter. Therefore, CBO estimates that net revenues over the 2006–2015 period would increase by \$68 million. Thus, enacting this bill would result in a net increase in federal deficits of about \$52 million over the 2006–2015 period, with additional revenue losses of about \$6 million a year continuing indefinitely thereafter.

H.R. 3909 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the mandate would result in no costs to state, local, or tribal governments. Hence, the mandate would not have costs that exceed the threshold established in that act (\$62 million in 2005, adjusted annually for inflation). H.R. 3909 contains no new private-sector mandates as defined in UMRA.

**Estimated cost to the Federal Government:** The estimated budgetary impact of H.R. 3909 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING										
FDIC and NCUA.										
Estimated Budget Authority	30	90	0	0	0	0	0	0	0	0
Estimated Outlays .....	30	90	0	0	0	0	0	0	0	0
CHANGES IN REVENUES										
Estimated Revenues .....	29	87	–6	–6	–6	–6	–6	–6	–6	–6

**Basis of estimate:** For this estimate, CBO assumes that the bill will be enacted before the end of calendar year 2005. We assume that any insured institution in the country could seek reimbursement for uncollectible checks issued by individuals from areas in the states of Alabama, Florida, Louisiana, Mississippi, and Texas that have been declared eligible for any type of disaster assistance since August 25, 2005.

#### *Direct spending*

The amounts paid to indemnify insured depository institutions and credit unions would depend on the volume of uncollectible checks submitted for reimbursement. CBO expects that requests

for indemnification would equal the normal volume of uncollectible checks for the portion of the population covered by the bill, plus any extraordinary losses that may have occurred in the wake of Hurricanes Katrina, Rita, and Wilma. Based on industry surveys of check fraud, CBO estimates that indemnification payments could range from \$40 million to \$200 million, with a midpoint of about \$120 million. Given the time needed to issue regulations and process requests, CBO assumes that most of the payments would be made in fiscal year 2007.

CBO expects that insured financial institutions would normally expect to lose about \$40 million from bad checks issued over a three-month period from the affected areas. That estimate is based on a 2004 survey by the American Bankers Association on check fraud experienced by banks and savings associations (the data did not include credit unions). The study found that attempted check fraud totaled about \$5.5 billion in 2003, but actual losses were less than \$700 million (or 13 percent of the attempted fraud) because of various controls and detection measures. Prorating those losses by population—17 percent of the country's population resided in the areas covered by the bill—suggests that the normal level of annual losses for this group totaled about \$120 million in 2003. Assuming losses occur evenly throughout the year, losses for a three-month period would have totaled about \$30 million in 2003. Adjusting those figures to include credit unions and possible growth in the level of losses from 2003 through 2005 suggests that the normal losses covered by the bill would total about \$40 million.

How Hurricane Katrina and other disasters affected the level of attempted fraud and institutions' ability to prevent it are very uncertain. So too is the effect of having a federal indemnification program, which could reduce institutions' incentives to investigate and prosecute check fraud. There are no data available at this time to determine whether costs would reach the \$200 million limit in the bill for the Federal Reserve's coverage of agency costs; that amount is five times higher than CBO's estimate of normal losses but lower than CBO's estimate of the region's proportionate share of the routine level of attempted fraud (about \$300 million, after adjusting for credit unions and possible growth in attempted fraud). Thus, the agencies' indemnification payments could reach the cap in the bill if there was a significant drop in institutions' ability to stem attempted fraud by individuals from the disaster areas over the designated period.

### *Revenues*

This bill would direct the Federal Reserve banks to transfer up to \$200 million from their surplus funds to the FDIC and NCUA to cover the indemnification payments for uncollectible checks or share drafts presented to them by insured banks or credit unions. Transfers from the Federal Reserve System to the Treasury are classified as revenues. Thus, anything that affects the size of the transfers affects federal revenues.

Such transfers originate with the net income of the Federal Reserve System. The Federal Reserve possesses a portfolio of assets that generates a large amount of interest income. Net income of the system represents the amount of the system's earnings less its expenses of operation. Out of its annual net income, the Federal

Reserve pays a fixed dividend to its member banks, retains monies for its surplus fund, and voluntarily remits the remaining profits to the U.S. Treasury. The system's surplus fund is a stock of retained earnings accumulated over time and is set by the Federal Reserve each year at a level equal to the paid-in capital of its member banks. The surplus is invested in interest-earning assets and generates some of the income that is in turn remitted to the Treasury in subsequent years.

H.R. 3909 specifies that the amount to be remitted (to cover the indemnification payments) would be paid from the Federal Reserve surplus. The bill also would prohibit the Federal Reserve from replenishing its surplus. Thus, any remittances would be in addition to the amount that CBO has estimated as regular annual transfers of the Federal Reserve's net income to the U.S. Treasury, after payment of dividends and retention of monies for its surplus fund.

CBO estimates that the additional transfer under the bill would increase revenues by \$30 million in fiscal year 2006 and \$90 million in fiscal year 2007. However, the permanent reduction in the surplus of the Federal Reserve would lead to a decrease in investments of the Federal Reserve. This permanent decrease in investments would cause a drop in the investment income that is earned by the Federal Reserve and subsequently sent to the Treasury as revenues. CBO estimates that the revenues from the Federal Reserve would thereby be lowered by \$1 million in fiscal year 2006, \$3 million in 2007, and \$6 million each year thereafter. Thus, CBO estimates that these forgone interest earnings would total \$52 million over the 2006–2015 period, and an additional \$6 million a year after 2015.

*Overall impact for revenue transferred from the Federal Reserve surplus*

H.R. 3909's provisions for transferring the Federal Reserve surplus give the appearance of financing the additional outlays of the FDIC and NCUA. This initial outcome is attributable to the fact that the Federal Reserve is treated as a nongovernmental entity for budgetary purposes, with its transfers to the Treasury counted as revenues. The proposal would also reduce future Federal Reserve transfers to the Treasury by an amount equal to the interest earned on the initial \$120 million transfer. Over time, the reduction in these remissions would equal the value of the transfer to the FDIC and NCUA (in present value terms). But much of the loss of Federal Reserve payments occurs outside the budget window of 10 years so that the initial costs of the legislation appear to be partially paid for. In economic terms, however, H.R. 3909 does not provide any new resources to the federal government to pay for the outlays called for by the legislation.

Estimated impact on state, local, and tribal governments: H.R. 3909 contains an intergovernmental mandate as defined in UMRA. Section 2(d)(1)(E) would preempt any state laws that restrict the ability of the FDIC and the NCUA to recover certain funds. CBO is unaware of any state that has such a law. We estimate that this mandate would result in no costs to state, local, or tribal governments.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Spending: Kathleen Gramp; Federal Revenues: Barbara Edwards; Impact on State, Local, and Tribal Governments: Sarah Puro; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax 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.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### 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. Short title, purpose*

This section establishes the short title of the bill, the "Hurricane Check Cashing Relief Act of 2005." This section also specifies the Congressional purposes of the Act.

##### *Section 2. Emergency authority to guarantee checks cashed for victims of certain 2005 hurricanes*

This section directs the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) to establish, in accordance with emergency guidance issued by the Board of Governors of the Federal Reserve System (Board), an emergency program under which an insured depository institution and insured credit union may obtain an indemnification commitment from the FDIC for loss it has suffered (up to \$2,000 for any one individual) through cashing a check or share draft between August 25, 2005, and November 15, 2005, that: (1) is presented for payment by any individual who, as of August 25, 2005, resided in Florida, Alabama, Mississippi, Louisiana, or Texas in a Presidentially declared major disaster area; and (2) is subsequently uncollectible.

This section also amends the Federal Reserve Act to direct the Federal Reserve banks to transfer from their surplus funds to the Board for the transfer to the Corporation or Administrator, up to \$200 million to meet the indemnification requirements of this Act. This section also directs the Board to issue emergency guidance and limitations for the Corporation and Administration to implement the provisions of this section. The Board, in consultation with the Corporation and Administration, may extend for 60 days the provisions of this section after appropriate notice is published in the Federal Register of this limited extension.

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 7 OF THE FEDERAL RESERVE ACT**

DIVISION OF EARNINGS

SEC. 7. (a) \* \* \*

(b) TRANSFER FOR FISCAL YEAR 2000.—

(1) \* \* \*

\* \* \* \* \*

(4) *ADDITIONAL TRANSFERS TO COVER CERTAIN RELIEF EFFORTS RESULTING FROM HURRICANES OF 2005.—*

*(A) IN GENERAL.—Subject to subparagraph (C), from the surplus funds of the Federal reserve banks maintained pursuant to subsection (a)(2), the Federal reserve banks shall transfer to the Board of Governors of the Federal Reserve System for transfer to the Federal Deposit Insurance Corporation and the National Credit Union Administration, such sums as are necessary to meet any payments required under subsection (a)(1) or (b)(1) of section 2 of the Hurricane Check Cashing Relief Act. In the event that the total amount of requests for indemnification received by the Federal Deposit Insurance Corporation and the National Credit Union Administration exceed the maximum amount specified under subparagraph (C), the sums transferred to the Federal Deposit Insurance Corporation and the National Credit Union Administration, respectively, shall be in proportion to the amount of payments required under subsection (a)(1) and (b)(1) of section 2 of the Hurricane Check Cashing Relief Act of 2005, respectively.*

*(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay.*

*(C) MAXIMUM AMOUNT.—The total amount transferred under subparagraph (A) from all Federal reserve banks shall not exceed \$200,000,000.*

*(D) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus*

*fund by the amount of any transfer by such bank under subparagraph (A).*

\* \* \* \* \*

○