

TAXATION OF FEMA DISASTER  
MITIGATION GRANTS

Mr. BOND. Mr. President, last week I introduced a bill, S. 586, as an alternative to my previous bill, S. 290, regarding the taxation of FEMA disaster mitigation grants. Both bills are designed to prevent the IRS from taxing these grants.

With the help of Senators VITTER, TALENT, VOINOVICH, NELSON, FEINSTEIN, and LANDRIEU, I introduced this new legislation as a companion to Congressman MARK FOLEY's bill, H.R. 1134, in House of Representatives. I commend Mr. FOLEY for his hard work and dedication to this proposal. Also, I commend the Department of Treasury for recognizing the serious nature of this issue and committing to work with Congress to resolve it.

This new legislation adds additional language to ensure that FEMA disaster mitigation grant recipients do not abuse the tax-free nature of the grant by capitalizing on the increased value of his/her property. In addition, the new language provides for a prospective effective date.

It is important to note, however, that the President's budget proposal gives the Treasury Department the administrative authority to apply the policies of S. 586 and H.R. 1134 to cases involving mitigation payments where the statute of limitations has not expired. It is my understanding that the Department of Treasury has agreed to issue a notice to the IRS clearly indicating that, in accordance with the policies of S. 586 and H.R. 1134, those taxpayers who are in receipt of these mitigation grants prior to the enactment of this legislation will not be subject to extra tax liabilities.

This legislation came about as a result of a direct threat by the IRS to tax these disaster mitigation grants. As I have said before, I am absolutely stunned at this latest antic by the IRS. The last thing Americans who are working to prevent potential destruction from floods, tornadoes, and hurricanes need is for Government-grant funding to be subject to tax. My bill ensures that the IRS's disaster tax does not see the light of day.

I ask unanimous consent that two letters from the Department of Treasury be printed in the RECORD. These letters are written to the chairmen of both the Senate Finance Committee and the House Ways and Means Committee expressing support for S. 586 and H.R. 1134 and committing to prevent retroactive taxation at the request of Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,  
Washington, DC., March 14, 2005.

Hon. CHARLES GRASSLEY,  
Chairman, Committee on Finance, U.S. Senate,  
Washington, DC.

DEAR CHAIRMAN GRASSLEY: I am writing to express the Administration's support for legislation to provide tax relief to property owners who participate in Federal Emer-

gency Management Agency (FEMA) hazard mitigation projects, specifically H.R. 1134 and S. 586 sponsored by Representative Mark Foley and Senator Bond respectively.

FEMA provides grants through State and local governments to mitigate potential damage from future natural hazards. Examples of mitigation projects include demolition, retro-fitting, and elevation of buildings. As a result, these grant projects are distinguishable from other grant programs in that their goal is to avoid the larger costs of damage that otherwise would be compensated in the future out of the taxpayer funded Disaster Relief Fund, National Flood Insurance Program, other Federal assistance programs, and State, local and private sources. Through hazard mitigation programs, FEMA has funded community mitigation projects affecting individual properties for over fifteen years. In particular, FEMA makes grants under the Flood Mitigation Assistance program, the Hazard Mitigation Grant Program, and the Pre-Disaster Mitigation program.

Under current law, gross income generally includes all income from whatever source derived. Generally, the mitigation grants from FEMA (or construction services paid by grants) represent income to the recipients. Under specific statutory and administrative exceptions, gross income does not include certain government payments made to individuals in response to need resulting from particular disasters. However, grants under the three FEMA mitigation programs described above often are made in anticipation of future disasters and other natural hazards and are not need based. Consequently, the mitigation grants generally do not qualify for these specific exceptions.

Similarly, if a property owner participates in a FEMA-assisted acquisition of his or her property, the property owner generally is required to include in income any gain from the sale of the property (subject to the \$250,000/\$500,000 exclusion from income of gain from the sale of a principal residence).

By explicitly excluding FEMA mitigation grants from income, the Foley/Bond legislation provides tax relief to home and property owners that receive the grants. Because participation by property owners in FEMA projects is voluntary, there is concern that owners of at-risk properties might decline to participate because of the potential tax obligation under current law, thus adding to long term taxpayer funded recovery costs. This presents a potential impediment to the policy Congress initially sought to implement through these grant programs.

Finally, it is also my understanding that the effective dates of the Foley/Bond legislation are prospective and that the tax exemption for these FEMA mitigation grants will be recognized upon date of enactment of the bill. Because the issue of retroactivity is also one of fairness, it is our hope that Congress, consistent with the Administration's budget proposal, will encourage the Treasury Department to provide retroactive relief to those individuals who have utilized FEMA mitigation grants in the past.

I commend the House for acting quickly to address this issue and urge the Congress to send this legislation to the President for his signature.

Sincerely,

JOHN W. SNOW.

DEPARTMENT OF THE TREASURY,  
Washington, DC, March 14, 2005.

Hon. WILLIAM THOMAS,  
Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN THOMAS: I am writing to express the Administration's support for legislation to provide tax relief to property

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JOHN W. SNOW.

CONDEMNING VIOLENCE AND  
CRIMINALITY IN NORTHERN IRELAND

Mr. DODD. Mr. President, I rise today to join my colleagues, Senators