

TREATMENT OF CERTAIN PAYMENTS IN EUGENICS
COMPENSATION ACT

FEBRUARY 9, 2016.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

R E P O R T

[To accompany S. 1698]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (S. 1698) to exclude payments from State eu-
genics compensation programs from consideration in determining
eligibility for, or the amount of, Federal public benefits, having con-
sidered the same, reports favorably thereon without amendment
and recommends that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

S. 1698, the Treatment of Certain Payments in Eugenics Compensation Act of 2015, exempts payments made under a State eugenics compensation program from being considered income or resources in determining the eligibility for, or amount of, any federal public benefit. The exemption would allow elderly victims of state eugenics programs, many of whom are poor, to receive compensation for their states' actions against them without losing eligibility for needed federal benefits as a result of the temporary increase in income from this one-time award.

BACKGROUND AND NEED FOR LEGISLATION

In the early part of the 20th century, 32 states had some form of eugenics program. Forced sterilization of individuals considered to be unfit for reproduction was a prominent part of those programs.¹ States targeted the mentally handicapped, as well as poor teenagers from large families, people with epilepsy, young rape victims, and people deemed "feeble-minded" by dubious early versions of IQ tests.²

Two states with particularly aggressive eugenics programs were North Carolina and Virginia.³ North Carolina even granted social workers the power to designate people for sterilization.⁴

Virginia and North Carolina have both enacted programs to provide compensation to victims of their sterilization programs. North Carolina's program awards approximately \$20,000 to each victim, with a possible increase to \$45,000 if no further victims are identified.⁵ Virginia's program awards \$25,000 to each living victim.⁶

Without a change in current federal law, these compensation payments would count against the victim's eligibility for federal benefits like Medicaid, Supplemental Security Income, and Supplemental Nutrition Assistance.⁷

This legislation would exempt the compensation payments from the victim's income for purposes of calculating federal benefits payments. Such treatment would honor the intent of the compensation programs to help make right this vast historical wrong. The legislation would also comport with the ordinary treatment of compensation payments for physical injuries, which are generally not included in gross income for the purpose of determining eligibility for federal benefits.⁸

¹Kim Severson, *Thousands Sterilized, a State Weighs Restitution*, N.Y. Times, (Dec. 9, 2011), <http://www.nytimes.com/2011/12/10/us/redress-weighed-for-forced-sterilizations-in-north-carolina.html>.

²*Id.*

³*Id.*

⁴*Id.*

⁵Thom Tillis, *Sen Thom Tillis: State eugenics program victims deserve fair compensation*, USA Today, (Sept. 9, 2015), <http://www.usatoday.com/story/opinion/2015/09/03/north-carolina-eugenics-victims-compensation-column/31423907/>.

⁶*Id.*

⁷*Id.*

⁸*See, e.g.*, 26 U.S.C. 104(a) (2012) (exempting damages or worker's compensation payments from gross income when either is compensating for physical injuries.)

LEGISLATIVE HISTORY

S. 1698, the Treatment of Certain Payments in Eugenics Compensation Act of 2015, was introduced on June 25, 2015, by Senator Thom Tillis (R–NC) and passed the Senate by unanimous consent on November 30, 2015. Upon receipt in the House, the bill was referred to the Committee on Oversight and Government Reform. On December 9, 2015, the Committee ordered S. 1698 favorably reported by voice vote. Congressman Patrick McHenry (R–NC) is the author of companion legislation (H.R. 2949) in the House.

SECTION-BY-SECTION

Section 1. Short title

Designates the short title of the bill as the “Treatment of Certain Payments in Eugenics Compensation Act”.

Section 2. Exclusion of payments from State eugenics compensation programs from consideration in determining eligibility for, or the amount of, Federal public benefits

Excludes payments made under a State eugenics compensation program from being considered income or resources in determining eligibility or amount of any federal public benefit.

Defines “Federal public benefit” as any benefit for which payments or assistance is provided to an individual, household, or family unit by the federal government. Retirement, welfare, health, disability, housing, postsecondary education, food assistance, and unemployment benefits are specifically enumerated, as are grants, contracts, loans, professional licenses, or commercial licenses provided by an agency of the United States.

Defines “State eugenics compensation program” as a program established by state law intended to compensate individuals who were sterilized under the authority of the State.

COMMITTEE CONSIDERATION

On December 9, 2015, the Committee met in open session and ordered reported favorably the bill, S. 1698, by unanimous consent, a quorum being present.

ROLL CALL VOTES

There were no recorded votes during Full Committee consideration of S. 1698.

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 establishes the treatment of State eugenics compensation payments for federal benefit purposes. 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 goal or objective of this bill is to honor the intent of the States in compensating the victims of State eugenics programs without jeopardizing the victims' access to federal benefits.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

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 Mandates Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill 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)(1) 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 this bill. However, clause 3(d)(2)(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 Direc-

tor of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

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 this bill from the Director of the Congressional Budget Office:

S. 1698—Treatment of Certain Payments in Eugenics Compensation Act

Summary: S. 1698 would exclude payments made under a state eugenics compensation program from being considered as income or resources in determining eligibility for, or the amount of, any federal benefit. Those state programs are intended to compensate those who had been involuntarily sterilized under state authority when such sterilization programs were active in the United States.

S. 1698 would affect federal spending by allowing a small number of people to receive Medicaid and Supplemental Security Income (SSI) during the period when they would otherwise be ineligible for those programs because of the income they received from the state programs. CBO estimates that enacting S. 1698 would increase direct spending by \$5 million over the 2016–2025 period.

S. 1698 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would not affect revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in one or more of the four consecutive 10-year periods beginning in 2026.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1698 is shown in the following table. The costs of this legislation fall within budget functions 550 (health) and 600 (income security). For this estimate, CBO assumes that S. 1698 will be enacted early in calendar year 2016.

	By fiscal year, in millions of dollars—											2016–2020	2016–2025
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025			
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	2	2	*	*	*	*	*	*	*	*	*	5	5
Estimated Outlays	2	2	*	*	*	*	*	*	*	*	*	5	5

Note: * = Less than \$500,000.

Basis of estimate: S. 1698 would exclude payments made under a state eugenics compensation program from being considered as income or resources in determining eligibility for, or the amount of, any federal benefit. CBO estimates that S. 1698 would affect spending for Medicaid and SSI (the effect on other federal pro-

grams would be negligible). Under current law, any eugenics compensation received by an individual would be counted as income in the month it was received and as resources thereafter for purposes of determining eligibility for Medicaid and SSI. S. 1698 would allow individuals who receive compensation, almost all of whom are poor and many of whom are developmentally disabled, to remain eligible for SSI and Medicaid despite receiving eugenics compensation.

In the absence of S. 1698, eugenics compensation recipients would lose eligibility for both programs because the compensation would exceed income eligibility thresholds for the program as well as resource eligibility levels beyond the month of receipt. Many of the individuals receiving compensation are believed to be in nursing homes or receiving other forms of expensive long term care services. CBO expects that recipients will spend down the compensation funds quickly by paying for their care and that, on average, recipients will lose eligibility for about one year under current law. Therefore, spending for SSI and Medicaid would be expected to increase by the cost of benefits for about one year for each person compensated if S. 1698 was enacted.

S. 1698 would affect individuals primarily in two states, North Carolina and Virginia. Based on information from several private sources involved in supporting those who had been involuntarily sterilized by state eugenics programs and from the North Carolina Office of Justice for Sterilization Victims, CBO estimates that S. 1698 would affect a very small number of people in those states. Because North Carolina's program ended in the early 1970s and Virginia's ended just after World War II, most of the people who had been sterilized have passed away or are very elderly and difficult to locate. The North Carolina program has identified fewer than 250 people who qualify for payments under its program and Virginia has identified fewer than 20 people who qualify. In addition, those two state programs fixed the level of compensation such that recipients would only receive a share of a \$10 million funding pool in North Carolina or receive \$25,000 each in Virginia.

Additional states that once had eugenics programs could establish similar compensation laws, but CBO estimates that fewer than half of those states will do so. CBO projects that the number of individuals that eventually would be identified and compensated in those states would be similar to the small number of people identified in Virginia, since the other state programs also ended just after World War II. Therefore, CBO estimates that the costs for any additional compensation programs would be minimal. In total, CBO estimates that enacting S. 1698 would increase direct spending by \$5 million over the 2016–2025 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. The legislation would not affect revenues.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1698, AS ORDERED REPORTED BY THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE ON DECEMBER 9, 2015

	By fiscal year, in millions of dollars—														2016– 2020	2016– 2025
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025						
NET INCREASE OR DECREASE (–) IN THE ON-BUDGET DEFICIT																
Statutory Pay-As-You-Go Impact	2	2	0	0	0	0	0	0	0	0	0	5	5			

Increase in long term direct spending and deficits: CBO estimates that enacting S. 1698 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2026.

Intergovernmental and private-sector impact: S. 1698 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Rob Stewart; Impact on state, local, and tribal governments: J’Nell Blanco Suchy; Impact on the private sector: Paige Piper-Bach.

Estimate approved by: Holly Harvey, Deputy Assistant Director for Budget Analysis.