

FOR THE RELIEF OF JOHN WESLEY DAVIS

MAY 5, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 584]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 584) for the relief of John Wesley Davis, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. WAIVER OF TIME LIMITATIONS.

The time limitations set forth in sections 3702(c) and 3328(a)(1) of title 31, United States Code, shall not apply with respect to a claim by John Wesley Davis, of Forestville, Maryland, for the amounts due to him by the—

- (1) Department of the Navy in the amount of \$42,123.84; and
- (2) Department of the Treasury in the amount of \$12,508.20.

The amounts due are represented by checks that were received but not negotiated by John Wesley Davis.

SEC. 2. DEADLINE.

Section 1 shall apply only if John Wesley Davis or his authorized representative submits a claim pursuant to such subsection before the expiration of the 6-month period beginning on the date of the enactment of this Act.

PURPOSE AND SUMMARY

H.R. 584 would waive the statute of limitations with respect to Mr. John Wesley Davis' claim for amounts due to him from the De-

partment of the Navy and the Department of the Treasury for checks he received, but which were never negotiated.

BACKGROUND AND NEED FOR THE LEGISLATION

John Wesley Davis served for over 20 years in the U.S. Navy until he retired in the mid-1970's. In the last 20 years, Mr. Davis has been mentally incapacitated. Since 1970, unbeknownst to his family, Mr. Davis had accumulated almost 300 checks representing his Navy pay and pension, as well as tax refunds, without cashing them. Recently, his family found these checks. Although processing of some of the checks could be handled administratively, a large number of other checks can only be cashed if the agencies are authorized to do so by a private bill. Those checks, the majority of which were Department of the Navy checks, amount to \$54,632.04.

Mr. Davis is currently a resident in a nursing home, and his mental and financial condition are both rapidly deteriorating. The cost of providing care for Mr. Davis has been steadily increasing, and these funds are greatly needed for his maintenance.

The Department of Navy has indicated that due to the unique circumstances of this case, they do not oppose this legislation. It should be noted that the bulk of the checks (\$42,123.84) are Department of Navy checks. The Treasury Department gave no comment on this legislation, but confirmed that the checks have not been cashed. The Office of Personnel Management had no comment on this legislation.

HEARINGS

The Committee's Subcommittee on Immigration and Claims held no hearings on H.R. 584.

COMMITTEE CONSIDERATION

On March 13, 1997, the Subcommittee on Immigration and Claims met in open session and ordered favorably reported the bill H.R. 584, as amended, by voice vote, a quorum being present.

On April 8, 1997, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 584, with amendment, by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 584, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 10, 1997.

Hon. HENRY J. HYDE,
*Chairman Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 584, a bill for the relief of John Wesley Davis, as ordered reported by the House Committee on the Judiciary on April 8, 1997. The bill would waive the statute of limitations for submitting claims against the United States Government. The waiver would result in payments totaling \$54,632 by the Department of the Navy and the Department of the Treasury in fiscal year 1997. Because the bill would increase direct spending, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter, who can be reached at 226-2860.

Sincerely,

JUNE E. O'NEILL, *Director.*

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in the First Amendment of the Constitution.

AGENCY VIEWS

The comments of the Department of the Navy and the Office of Personnel Management on H.R. 1886, the bill's predecessor in the 104th Congress, are as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 6, 1995.

Hon. LAMAR S. SMITH,
*Chairman, Subcommittee on Immigration and Claims,
Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of the Navy on H.R. 1886, 104th Congress, a bill "For the relief of John Wesley Davis."

The purpose of H.R. 1886 is to waive the time limitation of 31 U.S.C., section 3702(b), with respect to a claim by John Wesley Davis for \$61,103.01 due him from the Departments of Veterans Affairs, Navy, Treasury, and the District of Columbia.

Mr. Davis was a civilian employee of the Department of the Navy who retired on April 30, 1983. Recently, Mr. Davis's family discovered that he had received paychecks from the Department of the Navy which, due to Mr. Davis's diminished mental capacity, were never negotiated. Some of these paychecks are dated as early as 1970 and others as recently as 1982. All of the paychecks involved are dated prior to Mr. Davis's retirement in 1983. The Department of the Navy checks total \$42,123.84. Of that amount, \$23,348.59 are checks issued by the Navy's Personnel Support Activity and \$18,775.75 are checks issued by the Defense Finance and Accounting Service, Cleveland. Since Mr. Davis's paychecks were not presented within the statutory period, they are barred under 31 U.S.C., section 3702(b). The Department of the Navy does not have legal authority to issue replacement checks to Mr. Davis. The effect of H.R. 1886 would waive the statutory bar to payment of this claim.

The Department of Defense generally opposes private relief legislation which waives the statute of limitations in a preferential manner. It is noted, however, that the checks in the Davis family's possession are Department of the Navy checks for "salaries and expenses," drawn to the order of John Davis. The Office of Personnel Management confirmed that Mr. Davis was a civilian employee of the Department of the Navy and has been drawing CSRS retirement checks since May 1983. It appears that John Davis was entitled to the paychecks which were not negotiated. Civilian salaries are funded in the Operations and Maintenance, Navy (O&M,N) appropriation. The nonnegotiated paychecks would have been expenditures drawn on O&M,N accounts which have since been canceled. Waiver of the time limitation of 31 U.S.C., section 3702(b) will result in payment of these paychecks out of the O&M,N appropriation current at the time the paychecks are presented for payment. Under the unique circumstances of this case, the Department does not oppose H.R. 1886.

The Office of Management and Budget advises, that from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

R.J. NATTER.

cc: Hon. JOHN BRYANT,
Ranking Minority Member.

OFFICE OF PERSONNEL MANAGEMENT
Washington, DC, November 1, 1995.

Hon. LAMAR SMITH,
*Chairman, Subcommittee on Immigration and Claims,
Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. SMITH: This is in response to your recent request for the Office of Personnel Management's views concerning H.R. 1886, a bill "For the relief of John Wesley Davis."

We understand that Mr. Davis retired from a career in the U.S. Navy in the mid-1970's. Recently, his family discovered that Mr. Davis accumulated hundreds of Government checks over the next 20 years, representing military retired pay, pension benefits, and Federal and District of Columbia income tax refunds, which he failed to negotiate due to diminished mental capacity. Unfortunately, by the time Mr. Davis' representatives initiated corrective action, substantial portions of the claims against the Government were no longer enforceable due to the Federal statute of limitations (31 U.S.C. §3702 (b)). H.R. 1886 would waive the statute of limitations for enforcing claims based on obligations of the United States Government, for purposes of allowing Mr. Davis to be paid all of his previously accrued benefits.

While I certainly empathize with Mr. Davis' situation, his claims do not involve any benefit system within OPM's jurisdiction. Accordingly, we have no comment on H.R. 1886.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

JAMES B. KING, *Director.*