

FOR THE RELIEF OF JOHN WESLEY DAVIS

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JULY 23, 1996.—Committed to the Committee of the Whole House and ordered to  
be printed  
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Mr. HYDE, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 1886]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1886) for the relief of John Wesley Davis, having considered the same, report favorably thereon with an amendment and recommend 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 section 3702(b) 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

H.R. 1886 would waive the statute of limitations with respect to Mr. John Wesley Davis' claim for amounts due to him from several government entities for checks he received, but which were never negotiated.

## BACKGROUND

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 294 checks, totalling \$61,104.01. The Treasury Department has confirmed that these checks have not been negotiated.

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 the 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 the Navy checks.

The Department of Veterans Affairs has indicated that they have administrative authority to pay the funds without this legislation. Therefore, an amendment was made to the bill to delete the provision concerning their portion of the checks.

Due to the financial situation of the District of Columbia, the bill's sponsor requested an amendment to delete any obligation owed by the District of Columbia. The bill has been amended to remove tax refunds from the District of Columbia.

## COMMITTEE ACTION

On May 23, 1996, the Subcommittee on Immigration and Claims favorably reported the bill H.R. 1886, as amended by voice vote, to the Judiciary Committee.

On June 11, 1996, the Committee on the Judiciary ordered reported favorably H.R. 1886 with an 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. 1886, 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, June 14, 1996.*

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. 1886, a bill for the relief of John Wesley Davis, as ordered reported by the House Committee on the Judiciary on June 11, 1996. The bill would waive the statute of limitations for submitting claims against the United States government. This waiver would result in payments totaling \$54,632 by the Department of the Navy and the Department of the Treasury. Assuming the bill is enacted in the next two months, we expect the payments would occur in fiscal year 1996. 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.

Sincerely,

JUNE E. O'NEILL, *Director.*

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 1886 will have no significant inflationary impact on prices and costs in the national economy.

## AGENCY VIEWS

The comments of the Department of the Navy and the Office of Personnel Management are as follows:

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 cancelled. 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.

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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.*

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