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HOUSE BILL NO. 246

Offered January 10, 1996

A BILL for the relief of the Clarence Scott, Jr.

Patron—Diamonstein

Referred to Committee on Claims

Whereas, in March 1989, the United States Supreme Court ruled in *Davis v. Michigan* that the state's practice of taxing federal pensions while exempting state workers' pensions was unconstitutional; and

Whereas, the Commonwealth of Virginia was among 23 states faced with changing its income tax laws on retirement; and

Whereas, in an April 1989 Special Session, the General Assembly repealed the exemption for VRS retirement benefits so that the Commonwealth's federal and state retirees would be taxed equally; and

Whereas, the special session did not address the issue of refunding the taxes paid by federal retirees between 1985 and 1988, which prompted the filing of *Harper v. Commonwealth of Virginia* on May 31, 1989; and

Whereas, in an effort to bring closure to the case for all the parties involved, on July 8, 1994, the General Assembly set in motion the settlement process with regard to the *Harper* litigation by passing Senate Bill 2008; and

Whereas, Senate Bill 2008, which was signed into law on July 13, 1994, required the Department of Taxation to send tax overpayment notices to retirees and begin a public notification program on August 1, 1994; and

Whereas, November 1, 1994, was the deadline for all federal retirees to respond to the August 1, 1994, notice in order to preserve their rights to recover any Virginia taxes paid on federal retirement income for taxable years 1985 through 1988; and

Whereas, in an effort to provide relief for retired federal and military taxpayers who were denied participation in the settlement process established by Senate Bill 2008, the General Assembly in the 1995 Session enacted House Bill 1564 and Senate Bill 831, which were signed in to law on March 14, 1995; and

Whereas, House Bill 1564 and Senate Bill 831 provided that retired federal and military taxpayers who failed to provide necessary information or missed the applicable deadlines, due to circumstances beyond their control, could file the necessary forms or documents within the 60-day period following their enactment; and

Whereas, Clarence Scott, Jr., was a federal retiree and was unlawfully taxed on his federal pension by the Commonwealth during the taxable years 1985 through 1988; and

Whereas, Clarence Scott, Jr., was informed by the Department of Taxation that he could not participate in the settlement program because the Department had no record of ever receiving the FR1 form; and

Whereas, the amount of the tax overpayment made by Clarence Scott, Jr., in the period 1985 through 1988 is \$2,106, and the amount of the tax refund which Clarence Scott, Jr., would have received if he had participated in the settlement program is \$1,600; and

Whereas, Clarence Scott, Jr., has no other means to obtain a tax refund, except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That there is hereby appropriated from the general fund of the state treasury the amount of \$1,600 to be paid by check issued by the State Treasurer on warrant of the Comptroller to Clarence Scott, Jr., upon a release by him of all claims against the Commonwealth and its political subdivisions, agencies, instrumentalities, officers, or employees arising out of the aforesaid occurrence.*

INTRODUCED

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