

FOR THE RELIEF OF RABON LOWRY OF PEMBROKE, NORTH  
CAROLINA

—————  
JULY 10, 2001.—Referred to the Private Calendar and ordered to be printed  
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Mr. SENSENBRENNER, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 807]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 807) for the relief of Rabon Lowry of Pembroke, North Carolina, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 807 would pay Mr. Lowry \$1,000,000 for damages he incurred as a result of a breach of the contract he entered into with the Department of the Army.

BACKGROUND AND NEED FOR THE LEGISLATION

Pembroke Machine Company (PMC) was a small Native American owned company which produced precision machined parts for U.S. Government agencies. Mr. Lowry was the owner of that company. PMC entered into a major contract (over 60% of the com-

pany's work) with the Department of the Army to produce M55 projectiles. In 1988, PMC and the Army entered into a dispute over machining of the base radius, 20 MM projectile. Four months later, the dispute was still not resolved and PMC was forced to file Chapter 11. After several attempts to resolve the dispute, in February 1989, PMC filed a claim with Army for work stoppage in the amount of \$1,458,698.00. In July 1989, Army denied the claim in its entirety. In July 1994, after several appeals and denials, the Under Secretary of Defense suggested private bill relief as a means to settle the issue. The first private bill for Mr. Lowry was introduced by Congressman Rose in the 104th Congress. In August 1998, 3 years later, the Army sent a report to the Committee opposing the private bill. In the 106th Congress, Congressman McIntyre reintroduced a private bill for Mr. Lowry.

In November 1999, Congressman McIntyre sent a letter to the Secretary of Defense asking for a reexamination of the Army's unfavorable position on the legislation. In January 2000, the Department of Defense responded to Congressman McIntyre request stating that "As a consequence of your request, we made a careful review of the facts surrounding the dispute between the Department of the Army and Pembroke Machine Company and we now withdraw our previous objections to the bill. We no longer object to its enactment."

#### HEARINGS

The Committee's Subcommittee on Immigration and Claims held no hearings on H.R. 807.

#### COMMITTEE CONSIDERATION

On June 6, 2001, the Subcommittee on Immigration and Claims met in open session and ordered favorably reported the bill H.R. 807, without amendment, by voice vote, a quorum being present.

On June 20, 2001, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 807, without amendment, by voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII 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.

#### PERFORMANCE GOALS AND OBJECTIVES

This bill is based on the breach of contract by the Army. The Committee hopes that in the future the Army will pay closer attention to the contracts it enters into.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

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

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 807, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 22, 2001.*

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 807, a bill for the relief of Rabon Lowry of Pembroke, North Carolina.

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

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers Jr.  
Ranking Member

*H.R. 807—A bill for the relief of Rabon Lowry of Pembroke, North Carolina*

H.R. 807 would direct the Secretary of the Treasury to pay \$1,000,000 to Rabon Lowry as compensation for damages he incurred as a result of a breach of contract by the Department of the Army. Assuming enactment of the bill later this year, CBO expects the payment to be made in fiscal year 2002. Because H.R. 807 would affect direct spending, pay-as-you-go procedures would apply.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8 of the Constitution.

MARKUP TRANSCRIPT  
**BUSINESS MEETING**  
**WEDNESDAY, JUNE 20, 2001**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 11:07 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. The Chair would like to announce what our game plan is for today.

Mr. Conyers has got some back-to-back speeches at noon, so we will go through the schedule in the order which it appears, with one exception, until noon, and then we will recess for an hour and a half for lunch, and I would ask the Members to be back promptly at 1:30. The exception to the schedule, again, at Mr. Conyers' request, is that we will move H.R. 1407, which is the airline antitrust bill, up third on the agenda, ahead of the two patent bills. So we will do the two private bills, the airline bill, the two patent bills, the flag amendment and then the DOJ Authorization Act, and we will stay here until we are done with this complete schedule.

So the Chair now recognizes the gentleman from Pennsylvania, the Chairman of the Subcommittee on Immigration and Claims, to make a unanimous consent request on two private bills. And without objection, the unanimous consents will be considered en bloc.

Mr. GEKAS. Mr. Chairman, the Subcommittee on Immigration and Claims reports favorably the bill S. 560, and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Would you make a unanimous consent request on the other one, too.

Mr. GEKAS. And on the similar request on H.R. 807, and ask unanimous consent that they be considered together en bloc.

Chairman SENSENBRENNER. Without objection, so ordered.  
[H.R. 807 follows:]

107TH CONGRESS  
1ST SESSION

# H. R. 807

For the relief of Rabon Lowry of Pembroke, North Carolina.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2001

Mr. MCINTYRE introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

For the relief of Rabon Lowry of Pembroke, North Carolina.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SATISFACTION OF CLAIM.**

4 (a) IN GENERAL.—The Secretary of the Treasury  
5 shall pay, out of any money in the Treasury not otherwise  
6 appropriated, to Rabon Lowry of Pembroke, North Caro-  
7 lina, individually and as president of Pembroke Machine  
8 Company, Inc., the sum of \$1,000,000 for damages he in-  
9 curred as a result of a breach of Government Contract  
10 number DAAA09–85–C–0630 by the Department of the  
11 Army.

1 (b) CONDITIONS OF PAYMENT.—The payment shall  
2 be in full satisfaction of any claims Rabon Lowry or Pem-  
3 broke Machine Company may have against the United  
4 States arising from Government Contract number  
5 DAAA09-85-C-0630.

6 **SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.**

7 It shall be unlawful for an amount that exceeds 10  
8 percent of the sum described in section 1 to be paid to  
9 or received by any agent or attorney for any service ren-  
10 dered in connection with the benefits provided by this Act.  
11 Any person who violates this section shall be guilty of an  
12 infraction and shall be subject to a fine in the amount  
13 provided in title 18, United States Code.

○

Chairman SENSENBRENNER. Generally, we have dealt with private bills by unanimous consent. Is there any objection, while we do not have a reporting quorum present, without objection, the previous question is ordered on both bills pending the arrival of a reporting quorum.

Hearing none, so ordered.

The Chair now notes the presence of a reporting quorum. The Committee now returns to the pending unfinished business, upon which the previous question was ordered on H.R. 807 and S. 560, which have been considered en bloc.

The previous question has already been ordered. All of those in favor of reporting the bill favorably will signify by saying aye.

Those opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report favorably is agreed to. All Members will be entitled to place statements in the record on the two private bills.

Ms. JACKSON LEE. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Texas seek recognition?

Ms. JACKSON LEE. To strike the last word.

Chairman SENSENBRENNER. We have no pending question before the Committee.

Ms. JACKSON LEE. Well, parliamentary inquiry. I wanted to comment—

Chairman SENSENBRENNER. State your inquiry.

Ms. JACKSON LEE. The inquiry is on bill S. 560. That is a private bill and the bill that we just passed, which was another private bill, and I am losing the number right now.

Chairman SENSENBRENNER. H.R. 807 is the number.

Ms. JACKSON LEE. 807, correct. When you called it up, I was delayed, and I want to make sure that the support, in addition to one's vote, can be acknowledged by submitting statements into the record.

Chairman SENSENBRENNER. The Chair just said that without objection all Members may insert statements in the record relative to the two private bills just—

Ms. JACKSON LEE. Then I add my support for those bills and will submit statements into the record.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF TEXAS

I support private bill, H.R. 807 which provides \$1M of relief to Rabon Lowry, the president of Pembroke Machine Company, Inc., due to the Department of the Army's breach of contract.

Pembroke entered into a major contract with the Department of the Army to produce M55 projectiles. In 1988, there was a contract dispute. As a result, Pembroke was forced to file Chapter 11. In 1989, Pembroke filed a claim for work stoppage in the amount of \$1,485,698.00. The Army denied the claim. In 1994, the Under Secretary of Defense suggested private bill relief as a means to settle the issue.

The facts of this case have shown that a private bill is necessary to provide relief as a means to settle the issue.

Thank you.