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APPROVED
JAN 2-1975

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: January 4

January 1, 1975

Posted
1/3

To Archive
1/3

MEMORANDUM FOR THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill H.R. 8591
Appointment of Certain Officers to the
Active Lists of the Navy and the Marine Corps

Attached for your consideration is H.R. 8591, sponsored by Representative Frey, which authorizes the President, for a period of two years, to appoint to the active lists of the Regular forces of the Navy and Marine Corps certain Reserve and temporary officers.

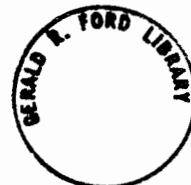
The legislation would correct a unique situation created for a small number of Reserve and temporary officers of the Navy and Marine Corps who were POW's.

OMB recommends approval and provides additional background information in its enrolled bill report (Tab A).

Max Friedersdorf and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign H.R. 8591 (Tab B).





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 30 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 8591 - Appointment of certain officers to the active lists of the Navy and the Marine Corps
Sponsor - Rep. Frey (R) Florida

Last Day for Action

January 4, 1975 - Saturday

Purpose

Authorizes the President, for a period of two years, to appoint to the active lists of the Regular forces of the Navy and Marine Corps certain Reserve and temporary officers.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval

Discussion

Existing law restricts augmentation into the Regular forces of the Navy and the Marine Corps to those officers of the Naval or Marine Corps Reserve or temporary officers of the Regular Navy or Regular Marine Corps who are not in permanent grades above lieutenant in the Navy or captain in the Marine Corps at the time of appointment to the active list. There is no comparable limitation on the augmentation of Air Force and Army officers.



The enrolled bill would authorize an exception to current law so that the President could appoint to the active lists of the Regular Navy or Regular Marine Corps, Naval or Marine Corps Reserve officers or temporary Regular Navy or Regular Marine Corps officers who are not in permanent grades above captain in the Navy or colonel in the Marine Corps and who were in a missing status (i.e., POW/MIA) in Southeast Asia during the Vietnam conflict.

Enactment of H.R. 8591 would correct a unique situation created for a small number of Reserve and temporary officers of the Navy and Marine Corps who were captured and detained for extended periods of time by foreign forces in Southeast Asia. Upon release, some of these officers, who had been promoted while imprisoned, already held permanent grades higher than lieutenant in the Navy or captain in the Marine Corps. The others will soon attain such higher grades. Thus, some are already, and the others very likely could soon become, precluded from consideration, under existing law, for augmentation to the active lists of the Regular Navy or Regular Marine Corps, even though several of them have indicated a desire to be appointed as Regular officers. H.R. 8591 would permit the President to appoint such officers to the active lists of the Navy and Marine Corps. The authority to make such appointments would be effective for two years from the date of enactment of the bill.

Alfred H. Rowland

Assistant Director for
Legislative Reference

Enclosures





DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

December 24, 1974

Dear Mr. Ash:

Your transmittal sheet dated December 23, 1974, enclosing a facsimile of an enrolled bill of Congress, H.R. 8591, "To authorize the President to appoint to the active list of the Navy and Marine Corps certain Reserves and temporary officers," has been received. The Department of the Navy has been assigned the responsibility for the preparation of a report expressing the views of the Department of Defense.

The purpose of H.R. 8591 is to authorize the President to make appointments to the active list of the Navy in permanent grades not above captain and to the active list of the Marine Corps in permanent grades not above colonel from officers of the Naval Reserve or the Marine Corps Reserve, and from officers of the Regular Navy or the Regular Marine Corps who do not hold permanent commissioned appointments. Such authority would be limited to those Reserve or temporary officers who were in a missing status as defined in 37 U.S.C. 551(2) during, and as a result of, the Vietnam conflict. The authority to make such appointments would expire two years from the date of enactment of H.R. 8591.

Approval of this legislation would correct a unique situation created for the Navy and Marine Corps when Reserve and temporary officers of these services were captured and detained for extended periods of time by enemy forces in Southeast Asia. Section 5573a of title 10, United States Code, authorizes augmentation into the Regular forces of the Navy and Marine Corps of officers of the Reserve component or temporary officers of the Regular component. However, section 5573a provides further that Reserve or temporary officers may be augmented only in a permanent grade not above lieutenant in the Navy or captain in the Marine Corps. A number of the officers of the Navy and Marine Corps missing in action or interned as prisoners in Southeast Asia held Reserve or temporary commissions; a small number of these officers held permanent grades higher than lieutenant in the Navy or captain in the Marine Corps at the time of their return or will soon attain such grades. Several of these officers have indicated a desire to be considered for augmentation. As indicated, section 5573a bars the augmentation of these officers in the grades they now hold or will attain. There is no comparable limitation on the augmentation of Air Force and Army officers.

The approval of this legislation would result in no increase in the budgetary requirements of the Department of Defense.



The Department of the Navy, on behalf of the Department of Defense, recommends the approval of H.R. 8591.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. S. Potter", with a long horizontal stroke extending to the right.

D. S. Potter
Under Secretary of the Navy

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.914

Date: December 30, 1974

Time: 5:00 p..m

FOR ACTION: NSC/S *no shj*
Phil Areeda
Max Friedersdorf

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, December 31

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill H.R. 8591 - Appointment of certain officers to the active lists of the Navy and the Marine Corps

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

*Warren L. Hendriks
for the President*

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 30 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 8591 - Appointment of certain
officers to the active lists of the Navy and
the Marine Corps
Sponsor - Rep. Frey (R) Florida

Last Day for Action

January 4, 1975 - Saturday

Purpose

Authorizes the President, for a period of two years, to
appoint to the active lists of the Regular forces of the
Navy and Marine Corps certain Reserve and temporary officers.

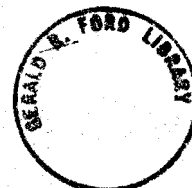
Agency Recommendations

Office of Management and Budget Approval

Department of Defense Approval

Discussion

Existing law restricts augmentation into the Regular forces
of the Navy and the Marine Corps to those officers of the
Naval or Marine Corps Reserve or temporary officers of the
Regular Navy or Regular Marine Corps who are not in permanent
grades above lieutenant in the Navy or captain in the Marine
Corps at the time of appointment to the active list. There
is no comparable limitation on the augmentation of Air Force
and Army officers.



To
M. Handrich
12-30-74
11:00 a.m.



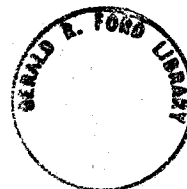
The enrolled bill would authorize an exception to current law so that the President could appoint to the active lists of the Regular Navy or Regular Marine Corps, Naval or Marine Corps Reserve officers or temporary Regular Navy or Regular Marine Corps officers who are not in permanent grades above captain in the Navy or colonel in the Marine Corps and who were in a missing status (i.e., POW/MIA) in Southeast Asia during the Vietnam conflict.

Enactment of H.R. 8591 would correct a unique situation created for a small number of Reserve and temporary officers of the Navy and Marine Corps who were captured and detained for extended periods of time by foreign forces in Southeast Asia. Upon release, some of these officers, who had been promoted while imprisoned, already held permanent grades higher than lieutenant in the Navy or captain in the Marine Corps. The others will soon attain such higher grades. Thus, some are already, and the others very likely could soon become, precluded from consideration, under existing law, for augmentation to the active lists of the Regular Navy or Regular Marine Corps, even though several of them have indicated a desire to be appointed as Regular officers. H.R. 8591 would permit the President to appoint such officers to the active lists of the Navy and Marine Corps. The authority to make such appointments would be effective for two years from the date of enactment of the bill.

Walter H. Rousell

Assistant Director for
Legislative Reference

Enclosures



THE WHITE HOUSE

WASHINGTON

December 31, 1974

MEMORANDUM FOR: WARREN HENDRIKS
FROM: *Van Sledright* MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 914

The Office of Legislative Affairs concurs with the Agencies
that the enrolled bill should be signed.

Attachments



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO. 914

Date: December 30, 1974

Time: 5:00 p.m.

FOR ACTION:

NSC/S *no obj*
Phil Areeda *pk*
Max Friedersdorf *pk*

cc (for information):

Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, December 31

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill H.R. 8591 - Appointment of certain officers to the active lists of the Navy and the Marine Corps

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.914

Date: December 30, 1974

Time: 5:00 p.m

FOR ACTION: NSC/S
Phil Areeda ✓
Max Friedersdorf

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, December 31

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill H.R. 8591 - Appointment of certain officers to the active lists of the Navy and the Marine Corps

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*No Objection
P Areeda*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren H. Hendriks
FOR THE STAFF SECRETARY

AUTHORIZING THE PRESIDENT TO APPOINT TO THE ACTIVE LIST OF THE NAVY AND MARINE CORPS CER- TAIN RESERVES AND TEMPORARY OFFICERS

DECEMBER 12, 1974.—Ordered to be printed

Mr. NUNN, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany H.R. 8591]

The Committee on Armed Services, to whom was referred the bill (H.R. 8591) to authorize the President to appoint to the active list of the Navy and Marine Corps certain Reserves and temporary officers, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to authorize the President to make appointments to the active list of the Navy in permanent grades not above captain and to the active list of the Marine Corps in permanent grades not above colonel from certain officers who were in a missing status during the Vietnam conflict. This bill affects only officers of the Naval Reserve or the Marine Corps Reserve and officers of the Regular Navy or the Regular Marine Corps who do not hold permanent commissioned appointments (i.e., temporary officers). Under existing law (section 5573a, title 10, United States Code), such appointments to the Regular forces of the Navy and Marine Corps are not allowed above the grade of lieutenant in the Navy and captain in the Marine Corps. In the other services, the regulations governing such appointments are made at the secretarial level.

LIMITATIONS ON THE AUTHORITY

The authority in this legislation would be limited to those Reserve or temporary officers who were in a missing status (POW/MIA) as

defined in section 551(2) title 37, United States Code, during and as a result of, the Vietnam conflict. For purposes of this bill, the Vietnam conflict begins on February 28, 1961, and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam. It includes activities in Vietnam, Laos, Cambodia, and Thailand. The authority to make such appointments would expire 2 years from the date of enactment of this legislation.

EXPLANATION OF THE BILL

In simple terms, those officers of the Reserve components or temporary officers of the Regular forces who hold grades above lieutenant in the Navy or captain in the Marine Corps are precluded from permanent appointment into the Regular forces at their present grades.

This bill would correct a unique situation created for the Navy and Marine Corps when Reserve and temporary officers of those services were captured and detained for extended periods of time by foreign forces in Southeast Asia. Section 5573a of title 10, United States Code, authorizes appointment into the Regular forces of the Navy and Marine Corps only to grades not above the grade of lieutenant in the Navy or captain in the Marine Corps. A number of the officers of the Navy and Marine Corps interned as prisoners in Southeast Asia held Reserve or temporary commissions and a small number of these officers held permanent grade higher than lieutenant in the Navy or captain in the Marine Corps at the time of release or will soon attain such grade. Present law bars the consideration for appointment, at their present grades, to the active lists of the Regular Navy or Regular Marine Corps of these formerly interned officers, several of whom have indicated a desire to be considered for such appointments. There is no comparable limitation on the appointments of Air Force and Army officers.

OFFICERS AFFECTED BY THE BILL

Five repatriated Naval Reserve officers previously interned by enemy forces in Southeast Asia hold permanent reserve grades above lieutenant and would be eligible for appointment to the Regular Navy in their present permanent grades if H. R. 8591 is enacted. Four of these officers are in the permanent reserve grade of commander and one is a permanent lieutenant commander. One Regular Navy temporary officer still in a missing status is a lieutenant commander and could be considered for permanent appointment as a lieutenant colonel under H. R. 8591 if he returns and requests such an appointment within two years of the legislation's date of enactment.

Three officers of the Marine Corps Reserve in the temporary grade of major are still in a missing status. These three officers will become permanent reserve majors within the next two years. If these officers return subsequent to achieving the permanent reserve grade of major, they will be ineligible under section 5573a of title 10, United States Code, for regular appointment in that permanent grade. However, they would be eligible under this bill for appointment in the permanent regular grade of major if they request such appointment within two years of the legislation's date of enactment.

In addition, 44 Naval Reserve or temporary officers who were interned by enemy forces in Southeast Asia but who have returned hold grades below lieutenant commander and could be appointed in those permanent grades, pursuant to section 5573a of title 10, United States Code. However, any reserve officers of these 44, who attains a permanent reserve grade higher than lieutenant or any temporary officer who attains a grade higher than a lieutenant prior to appointment under section 5573a could be considered for appointment under H.R. 8591 if they so request within two years of the legislation's date of enactment.

In sum, 53 Reserve or temporary officers could be affected by this bill. At present, five have shown an interest in Regular appointments which would need the authority of the bill to be permanently appointed in the grade which these officers now hold. Four officers are still in a missing status, and 44 officers who have been repatriated might need the authority of the bill.

FISCAL DATA

Enactment of the legislation would result in no increase in the budgetary requirements of the Department of Defense.

DEPARTMENTAL POSITION

The Department of the Navy, on behalf of the Department of Defense, favors enactment of this legislation as indicated by the following letter which is hereby made a part of this report.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., November 7, 1974.

HON. JOHN C. STENNIS,
*Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to a request from a member of the Senate Armed Services Committee staff for comment on H.R. 8591, an act "To authorize the President to appoint to the active list of the Navy and Marine Corps certain Reserves and temporary officers." The Department of the Navy has been designated as the representative of the Department of Defense for this legislation.

The stated purpose of H.R. 8591 is to authorize the President to make appointments to the active list of the Navy in permanent grades not above captain and to the active list of the Marine Corps in permanent grades not above colonel from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps who do not hold permanent commissioned appointments. Such authority would be limited to those Reserve or temporary officers who were in a missing status (POW/MIA) as defined in 37 U.S.C. 551(2) during, and as a result of, the Vietnam conflict. The authority to make such appointments would expire two years from the date of enactment of this proposed legislation.

This legislation would correct a unique situation created for the Navy and Marine Corps when Reserve and temporary officers of those

services were captured and detained for extended periods of time by foreign forces in Southeast Asia. Section 5573a of title 10, United States Code, restricts augmentation into the Regular forces of the Navy and Marine Corps to those officers of the Reserve component or temporary officers of the Regular forces who hold permanent grade not above lieutenant in the Navy or captain in the Marine Corps at the time of appointment to the active list. A number of the officers of the Navy and Marine Corps interned as prisoners in Southeast Asia held Reserve or temporary commissions and a small number of these officers held permanent grade higher than lieutenant in the Navy or captain in the Marine Corps at the time of release or will soon attain such grade. Present law bars the consideration for augmentation to the active lists of the Regular Navy or Regular Marine Corps of these formerly interned officers, several of whom have indicated a desire to be considered for augmentation. There is no comparable limitation on the augmentation of Air Force and Army officers.

In its report on H.R. 8591 to the chairman of the House Armed Services Committee, the Department of the Navy recommended several technical revisions, including language clarifying the time period and the geographic area covered by the legislation. As passed by the House of Representatives, H.R. 8591 includes all of the amendments recommended by the Department of the Navy.

Enactment of H.R. 8591 would result in no increase in the budgetary requirements of the Department of Defense.

The Department of the Navy, on behalf of the Department of Defense, strongly supports the enactment of H.R. 8591.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

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 on H.R. 8591 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. H. WILLETT,
Captain, U.S. Navy,
Deputy Chief.

○

**AUTHORIZING THE PRESIDENT TO APPOINT TO THE
ACTIVE LIST OF THE NAVY AND MARINE CORPS CER-
TAIN RESERVES AND TEMPORARY OFFICERS**

JUNE 21, 1974.—Committed to the Committee of the Whole House on the State
of the Union and order to be printed

Mr. FISHER, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany H.R. 8591]

The Committee on Armed Services, to whom was referred the bill (H.R. 8591) to authorize the President to appoint to the active list of the Navy and Marine Corps of certain Reserves and temporary officers, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike everything after the enacting clause and add the following new language:

That notwithstanding section 5573a of title 10, United States Code, or any other law, the President may make appointments to the active list of the Navy in permanent grades not above captain, and to the active list of the Marine Corps in permanent grades not above colonel from officers of the following who were in a missing status as defined in section 551(2) of title 37, United States Code, during the Vietnam conflict as a result of that conflict:

(1) The Naval Reserve or the Marine Corps Reserve.

(2) The Regular Navy or Marine Corps who do not hold permanent commissioned appointments therein.

SEC. 2. For the purposes of this Act, the Vietnam conflict—

(1) begins on February 28, 1961;

(2) ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam; and

(3) includes activities in Vietnam, Laos, Cambodia and Thailand.

SEC. 3. The authority to make appointments under this Act shall expire two years from the date of enactment.

Amend the title so as to read:

To authorize the President to appoint to the active list of the Navy and Marine Corps certain Reserves and temporary officers.

EXPLANATION OF THE AMENDMENTS

The amendment is in the nature of a substitute and in essence reflects the bill as originally introduced but changes the language to conform the bill to the style of title 10, United States Code, because of the bill's close relationship with that title; and to define "Vietnam conflict," both as to time and as to the activities which could have resulted in a missing status within the coverage of the bill.

The title of the bill, as amended, conforms to the style of title 10, United States Code.

PURPOSE OF THE BILL

The purpose of the bill is to authorize the President to make appointments to the active list of the Navy in permanent grades not above captain and to the active list of the Marine Corps in permanent grades not above colonel from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps who do not hold permanent commissioned appointments. Such authority would be limited to those Reserve or temporary officers who were in a missing status (POW/MIA) as defined in 37 U.S.C. 551(2) during, and as a result of, the Vietnam conflict. The authority to make such appointments would expire two years from the date of enactment of this proposed legislation.

EXPLANATION OF THE BILL

This bill would correct a unique situation created for the Navy and Marine Corps when Reserve and temporary officers of those services were captured and detained for extended periods of time by foreign forces in Southeast Asia. Section 5573a of title 10, United States Code, restricts augmentation into the Regular forces of the Navy and Marine Corps to those officers of the Reserve component or temporary officers of the Regular forces who hold permanent grade not above lieutenant in the Navy or captain in the Marine Corps at the time of appointment to the active list. A number of the officers of the Navy and Marine Corps interned as prisoners in Southeast Asia held Reserve or temporary commissions and a small number of these officers held permanent grade higher than lieutenant in the Navy or captain in the Marine Corps at the time of release or will soon attain such grade. Present law bars the consideration for augmentation to the active lists of the Regular Navy or Regular Marine Corps of these formerly interned officers, several of whom have indicated a desire to be considered for augmentation. There is no comparable limitation on the augmentation of Air Force and Army officers.

In simple terms, those officers of the Reserve components or temporary officers of the Regular forces who hold permanent grades above lieutenant in the Navy or captain in the Marine Corps are precluded from augmentation into the Regular forces. Seven officers in this category were shot down during the Vietnam conflict and were held prisoner of war by the North Vietnamese; six have returned and one is in a missing-in-action status. Six of these officers have now indicated a desire to become Regular officers of the Navy and Marine Corps but they had received promotions while in the prisoner-of-war or missing-

in-action status and thus now have advanced above the grade of lieutenant in the Navy and captain in the Marine Corps and are precluded from becoming Regular officers of these two Services. This legislation would permit them to become Regular officers.

FISCAL DATA

Enactment of H.R. 8591, as amended, would result in no increase in the budgetary requirements of the Department of Defense.

COMMITTEE POSITION

The Committee on Armed Services, on June 20, 1974, a quorum being present, unanimously agreed to report H.R. 8591, as amended, to the House and strongly recommends its enactment.

DEPARTMENTAL POSITION

The Department of the Navy, on behalf of the Department of Defense, favors enactment of this legislation. A letter from the Department of the Navy is set out below as part of this report.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., October 30, 1973.

HON. F. EDWARD HÉBERT,
*Chairman, Committee on Armed Services,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your request for comment on H.R. 8591, a bill "To authorize the President to appoint to the active list of the Navy and Marine Corps of certain Reserves and temporary officers," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The stated purpose of this bill is to authorize the President to make appointments to the active list of the Navy in permanent grades not above captain and to the active list of the Marine Corps in permanent grades not above colonel from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps who do not hold permanent commissioned appointments. Such authority would be limited to those Reserve or temporary officers who were in a missing status (POW/MIA) as defined in 37 U.S.C. 551(2) during, and as a result of, the Vietnam conflict. The authority to make such appointments would expire two years from the date of enactment of this proposed legislation.

This bill would correct a unique situation created for the Navy and Marine Corps when Reserve and temporary officers of those services were captured and detained for extended periods of time by foreign forces in Southeast Asia. Section 5573a of title 10, United States Code, restricts augmentation into the Regular forces of the Navy and Marine Corps to those officers of the Reserve component or temporary officers of the Regular forces who hold permanent grade not above lieutenant in the Navy or captain in the Marine Corps at the time of appointment to the active list. A number of the officers of the Navy and Marine

Corps interned as prisoners in Southeast Asia held Reserve or temporary commissions and a small number of these officers held permanent grade higher than lieutenant in the Navy or captain in the Marine Corps at the time of release or will soon attain such grade. Present law bars the consideration for augmentation to the active lists of the Regular Navy or Regular Marine Corps of these formerly interned officers, several of whom have indicated a desire to be considered for augmentation. There is no comparable limitation on the augmentation of Air Force and Army officers.

In order to make clear that "who were in a missing status . . ." (lines 1-2, page 2 of H.R. 8591) applies to both preceding source categories ("from . . . Reserve, and from . . . Regular . . . therein"; line 8, page 1 through line 1, page 2 of H.R. 8591); to conform H.R. 8591 to the style of title 10, United States Code, because of the bill's close relationship with that title; and to define "Vietnam conflict," both as to time and as to the activities which could have resulted in a missing status within the coverage of the bill, the Department of the Navy recommends the enactment of the enclosed substitute draft bill.

Enactment of either H.R. 8591 or the substitute draft bill would result in no increase in the budgetary requirements of the Department of Defense.

The Department of the Navy, on behalf of the Department of Defense, strongly supports enactment of the substitute draft bill.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

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 on H.R. 8591 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. K. SNYDER,
Rear Admiral, USN,
Chief of Legislative Affairs.

SUMMARY**PURPOSE OF BILL**

The purpose of H.R. 8591 is to authorize the President to appoint to the active list of the Navy and Marine Corps certain Reserves and temporary officers to the Regular Navy and Marine Corps.

EXPLANATION OF BILL

Current legislation precludes the appointment into the Regular forces of the Navy and Marine Corps to those officers of the Reserve Component or temporary officers of the Regular forces who hold permanent grade not above lieutenant in the Navy or captain in the Marine Corps at the time of appointment to the active list. This bill would authorize the President to appoint officers into the Regular forces who were held prisoners of war or missing in action to the Regular Navy and Marine Corps even though they had exceeded such grades.

FISCAL DATA

This legislation will have no effect upon the Department of Defense budget.

COMMITTEE POSITION

The Committee on Armed Services, on June 20, 1974, a quorum being present, agreed to report H.R. 8591, as amended, to the House and strongly recommends its enactment.

DEPARTMENTAL POSITION

The Department of the Navy, on behalf of the Department of Defense, strongly supports enactment of this legislation as amended.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, there is herewith printed in parallel columns the text of existing law which would be repeated or amended by the various provisions of the bill as reported.

EXISTING LAW

THE BILL AS AMENDED

TITLE 10, UNITED STATES CODE

§ 5573a. REGULAR NAVY AND REGULAR MARINE CORPS: FROM RESERVE AND TEMPORARY OFFICERS

(a) Appointments to the active list of the Navy in permanent grades not above lieutenant and to the active list of the Marine Corps in permanent grades not above captain may be made from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps who do not hold permanent commissioned appointments therein.

(b) Appointments under subsection (a) shall be made by the President alone under regulations to be prescribed by him for the administration of this section. The regulations shall include provisions—

(1) establishing standards and qualifications for appointments in each grade in which appointments are authorized by subsection (a);

That notwithstanding section 5573a of title 10, United States Code, or any other law, the President may make appointments to the active list of the Navy in permanent grades not above captain, and to the active list of the Marine Corps in permanent grades not above colonel from officers of the following who were in a missing status as defined in section 551(2) of title 37, United States Code during the Vietnam conflict as a result of that conflict:

(1) The Naval Reserve or the Marine Corps Reserve.

(2) The Regular Navy or Marine Corps who do not hold permanent commissioned appointments therein.

SEC. 2. For the purposes of this Act, the Vietnam conflict—

(1) begins on February 28, 1961;

(2) ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam; and

(2) for determining the lineal position of appointees; and

(3) for assigning running mates to officers appointed in a staff corps.

(c) To be eligible for an appointment under this section, an officer must have such qualifications as the Secretary of the Navy may prescribe.

(d) An officer may not be appointed to the active list of the Navy or the Marine Corps under this section in a permanent grade higher than the grade in which he is serving at the time of that appointment. However, an officer appointed in a permanent grade under this section may also be temporarily appointed to a higher grade appropriate to the lineal position assigned to him. Such a temporary appointment shall be considered to have been made under the provisions of law under which officers having a comparable lineal position on the active list of the Navy or the Marine Corps, as the case may be, were temporarily promoted to that higher grade.

(e) An officer who, at the time of his appointment under this section, has to his credit leave accrued but not taken does not lose that accrued leave because of that appointment.

(3) includes activities in Vietnam, Laos, Cambodia and Thailand.

SEC. 3. The authority to make appointments under this Act shall expire two years from the date of enactment.

TITLE 37, UNITED STATES CODE

§ 551. Definitions

In the chapter—

(2) “missing status” means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

- (A) missing;
- (B) missing in action;
- (C) interned in a foreign country;
- (D) captured, beleaguered, or besieged by a hostile force; or
- (E) detained in a foreign country against his will; and

(3) “pay and allowances” means—

- (A) basic pay;
- (B) special pay;
- (C) incentive pay;
- (D) basic allowance for quarters;
- (E) basic allowance for subsistence; and
- (F) station per diem allowances for not more than 90 days.

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To authorize the President to appoint to the active list of the Navy and Marine Corps certain Reserves and temporary officers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 5573a of title 10, United States Code, or any other law, the President may make appointments to the active list of the Navy in permanent grades not above captain, and to the active list of the Marine Corps in permanent grades not above colonel from officers of the following who were in a missing status as defined in section 551(2) of title 37, United States Code, during the Vietnam conflict as a result of that conflict:

- (1) The Naval Reserve or the Marine Corps Reserve.
- (2) The Regular Navy or Marine Corps who do not hold permanent commission appointments therein.

Sec. 2. For the purposes of this Act, the Vietnam conflict—

- (1) begins on February 28, 1961;
- (2) ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam; and
- (3) includes activities in Vietnam, Laos, Cambodia and Thailand.

Sec. 3. The authority to make appointments under this Act shall expire two years from the date of enactment.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*