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APPROVED

JUL 7 - 1975



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

JUL 2 1975

*Posted
7/8
to archive
7/8*

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 2109 - For the relief of
Captain George Moore, Junior, United States
Air Force
Sponsor - Rep. Gonzalez (D) Texas

Last Day for Action

July 9, 1975 - Wednesday

Purpose

Authorizes payment to Captain George Moore, Junior, United States Air Force, for 90 days of leave he was unable to use due to his extensive hospitalization and convalescent leave resulting from severe injuries sustained in a plane crash while on duty in Vietnam on March 8, 1970.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Air Force	Approval

Discussion

Under existing law, an officer who has leave to his credit at the time of his discharge or retirement is entitled to payment for up to 60 days of accrued leave based on the pay and allowances he is entitled to on the date of his discharge or retirement. An exception is permitted, however, for members in a missing status who are allowed to accumulate and be paid for leave without regard to the 60 day restriction.

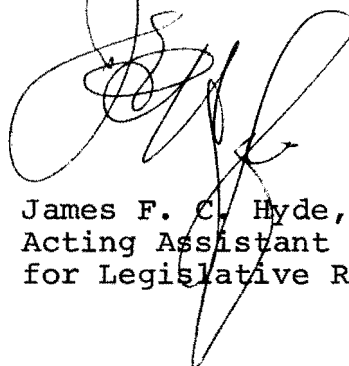


On March 8, 1970, Captain Moore sustained severe injuries in a plane crash in Vietnam, resulting in the amputation of both his legs, his right arm and complete ulnar nerve palsy of the left arm. He was hospitalized for a period from March 1970, through August 1973, at which time he was retired from the Air Force with service-connected disabilities rated at 100 percent. As a result of his prolonged hospitalization, Captain Moore accumulated 90 days of leave in excess of the 60 day limit, all of which he was unable to use. Consequently, upon his retirement, he was paid for 60 days leave, but he was prohibited by law from receiving any additional compensation for leave he accumulated over the 60 day maximum. It should be noted that while hospitalized, Captain Moore was allowed to take approximately 270 days of convalescent and similar leave without charge to ordinary leave.

The enrolled bill would permit Captain Moore to be paid for the 90 days of leave he was unable to use or receive credit for due to the 60 day restriction. Such payment would be in addition to the amount he did receive for accrued leave upon his retirement.

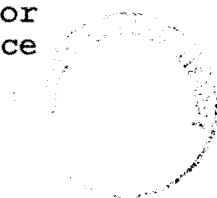
In its report to the House Judiciary Committee on a similar proposal in the 93rd Congress, the Air Force said:

"...the purpose of ordinary leave, as established by law, is to provide a member with diversions from the day-to-day routine and pressures of his military assignment. However, Congress made an exception to this law in the case of members who were in a missing status. Although payment for 90 days leave to Captain Moore, as proposed in H.R. 9589, is not in accordance with the law, we believe that his case also warrants an exception to the law because of his prolonged hospitalization resulting from extensive injuries incurred as the result of his military duties."



James F. C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference

Enclosures




THE WHITE HOUSE

WASHINGTON

July 3, 1975

ACTION

Last Day: July 9

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON 
SUBJECT: Enrolled Bill H.R. 2109
For the Relief of Captain George Moore, Jr.
United States Air Force

Attached for your consideration is H.R. 2109, sponsored by Representative Gonzalez, which authorizes payment to Captain George Moore, Jr., USAF for 90 days of leave he was unable to use due to his extensive hospitalization and convalescent leave resulting from injuries suffered in a plane crash while on duty in Vietnam.


Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Phil Buchen (Lazarus), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 2109 at Tab B.

July 3, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: Jeanne W. Davis 
SUBJECT: H. R. 2109 - Relief of
Captain George Moore, Jr. USAF

The NSC Staff concurs in the proposed enrolled bill H. R. 2109.

OFFICE OF MANAGEMENT AND BUDGET
ROUTE SLIP

TO Mr. Linder

- Take necessary action
- Approval or signature
- Comment
- Prepare reply
- Discuss with me
- For your information
- See remarks below

FROM Mary Molnar
X4700

DATE 7-2-75

REMARKS

Senate Report # 94-220
not available at this
time - will be forwarded
later.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 2

Time: 500pm

FOR ACTION:

NSC/S *on Davis*
Max Friedersdorf *cc* (for information):
Ken Lazarus

JIm Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 3

Time: 400pm

SUBJECT:

H.R. 2109 - Relief of Captain George Moore, Jr. USAF

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

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

JUL 2 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 2109 - For the relief of
Captain George Moore, Junior, United States
Air Force
Sponsor - Rep. Gonzalez (D) Texas

Last Day for Action

July 9, 1975 - Wednesday

Purpose

Authorizes payment to Captain George Moore, Junior, United States Air Force, for 90 days of leave he was unable to use due to his extensive hospitalization and convalescent leave resulting from severe injuries sustained in a plane crash while on duty in Vietnam on March 8, 1970.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Air Force	Approval

Discussion

Under existing law, an officer who has leave to his credit at the time of his discharge or retirement is entitled to payment for up to 60 days of accrued leave based on the pay and allowances he is entitled to on the date of his discharge or retirement. An exception is permitted, however, for members in a missing status who are allowed to accumulate and be paid for leave without regard to the 60 day restriction.



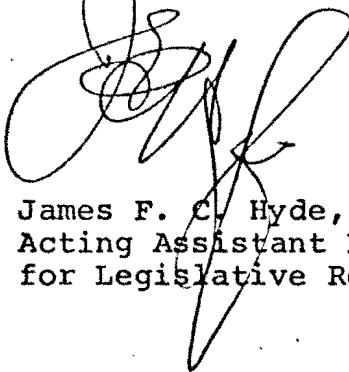
To
J. Conroy
7-2-75
5:00 p.m.

On March 8, 1970, Captain Moore sustained severe injuries in a plane crash in Vietnam, resulting in the amputation of both his legs, his right arm and complete ulnar nerve palsy of the left arm. He was hospitalized for a period from March 1970, through August 1973, at which time he was retired from the Air Force with service-connected disabilities rated at 100 percent. As a result of his prolonged hospitalization, Captain Moore accumulated 90 days of leave in excess of the 60 day limit, all of which he was unable to use. Consequently, upon his retirement, he was paid for 60 days leave, but he was prohibited by law from receiving any additional compensation for leave he accumulated over the 60 day maximum. It should be noted that while hospitalized, Captain Moore was allowed to take approximately 270 days of convalescent and similar leave without charge to ordinary leave.

The enrolled bill would permit Captain Moore to be paid for the 90 days of leave he was unable to use or receive credit for due to the 60 day restriction. Such payment would be in addition to the amount he did receive for accrued leave upon his retirement.

In its report to the House Judiciary Committee on a similar proposal in the 93rd Congress, the Air Force said:

"...the purpose of ordinary leave, as established by law, is to provide a member with diversions from the day-to-day routine and pressures of his military assignment. However, Congress made an exception to this law in the case of members who were in a missing status. Although payment for 90 days leave to Captain Moore, as proposed in H.R. 9589, is not in accordance with the law, we believe that his case also warrants an exception to the law because of his prolonged hospitalization resulting from extensive injuries incurred as the result of his military duties."



James F. C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference

Enclosures

THE WHITE HOUSE

45

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 2

Time: 500pm

FOR ACTION: *PKW* NSC/S
 Max Friedersdorf — cc (for information): Jim Cavanaugh
 Ken Lazarus Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 3

Time: 400pm

SUBJECT:

H.R. 2109 - Relief of Captain George Moore, Jr. USAF

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> 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

DEPARTMENT OF THE AIR FORCE
WASHINGTON, D.C. 20330



OFFICE OF THE SECRETARY

JUL 1 1975

Dear Mr. Director:

Reference is made to your request for the views of the Department of the Air Force with respect to the enrolled enactment of H.R. 2109, 94th Congress, an Act "For the relief of Captain George Moore, Jr., United States Air Force." The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The enrolled enactment is to authorize the Secretary of the Treasury to pay to Captain George Moore, Jr., compensation for ninety days leave, which he was unable to take because of extensive hospitalization and convalescent leave following injuries sustained in a plane crash in Vietnam on March 8, 1970. Credit for this leave was lost under section 701 of title 10, United States Code, because he had accumulated leave in excess of sixty days. Payment for this leave shall be in addition to payments for accrued leave to which he was entitled under section 501 of title 37, United States Code upon his retirement. The total compensation for this leave would be \$3,839.94.

Section 2 of the enrolled enactment provides that no part of the compensation appropriated Captain Moore shall be paid to or received by any agent or attorney for services rendered in connection with this claim.

In view of the extensive injuries suffered by Captain Moore, we believe that his case warrants an



exception to section 701 of title 10, United States Code, and therefore recommend approval and signature by the President of H.R. 2109.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm W. Woodruff". The signature is fluid and cursive, with a prominent flourish at the end.

WILLIAM W. WOODRUFF
Assistant Secretary of the Air Force
(Financial Management)

Honorable James T. Lynn
Director
Office of Management and Budget

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 2

Time: 500pm

FOR ACTION: NSC/S
Max Friedersdorf
Ken Lazarus ✓

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 3

Time: 400pm

SUBJECT:

H.R. 2109 - Relief of Captain George Moore, Jr. USAF

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 7/3/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a

Calendar No. 235

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-240

CAPT. GEORGE MOORE, JR., U.S. AIR FORCE

JUNE 24 (legislative day, JUNE 6), 1975.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 2109]

The Committee on the Judiciary, to which was referred the bill (H.R. 2109) for the relief of Capt. George Moore, Jr., of the U.S. Air Force, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize the payment of compensation to Capt. George Moore, Jr., for 90 days of leave which he was unable to take because of his extensive hospitalization and convalescent leave following injuries he sustained in a plane crash in Vietnam on March 8, 1970.

STATEMENT

Air Force records show that Capt. George Moore, Jr., was commissioned a second lieutenant on October 21, 1966. Following pilot training, he was assigned to duty as a flying officer in the Air Force and served in Southeast Asia from January 27, 1968, through January 26, 1969. He volunteered for a second tour of duty in Southeast Asia, reporting for duty in Vietnam on October 9, 1969. On March 8, 1970, the airplane he was piloting crashed in Vietnam and he suffered severe injuries and was medically air evacuated to Brooke General Hospital, Fort Sam Houston, Tex., March 23, 1970. He was transferred to Wil-

end of the fiscal year after the fiscal year in which service in the hostile fire area terminated (10 U.S.C. 701(f)).

(d) An officer who has leave to his credit at the time of his discharge or retirement is entitled to payment for accrued leave based on the pay and allowances to which he is entitled on date of discharge or retirement. However, he may not be paid for more than 60 days leave (37 U.S.C. 501(b) and (f)).

(e) A member in a missing status is entitled to accumulate leave without regard to the 60 or 90 day limitation. However, leave so accumulated may not be taken but is paid for in a lump-sum payment (10 U.S.C. 701(g)).

(f) A member is entitled to full pay and allowances for any period he is sick or in the hospital without charge to ordinary leave (Chapter 3, Volume III, Air Force Manual 177-373, Leave Policy and Procedures).

(g) A member who is sick or in the hospital may be granted convalescent leave upon the recommendation of the physician most familiar with the member's condition (Chapter 3, Volume III, Air Force Manual 177-373, Leave Policy and Procedures).

(h) A hospital commander may release a member who is a patient while continuing the patient's treatment on an "excused from duty" basis without charge to ordinary leave. During this period, the patient is permitted to subsist outside the hospital and may live in a dormitory, bachelor officers' quarters or at home (Paragraph 4-31, Air Force Manual 168-4, Administration of Medical Activities).

In Captain Moore's case, there is no record that he accumulated ordinary leave in excess of 60 days prior to his service in Southeast Asia and which he would have been required to "use or lose" before June 30, 1970, or that he "lost" any leave prior to June 30, 1970. He was hospitalized continuously from March 9, 1970 until August 25, 1973, the date he retired, and was credited with 30 days ordinary leave each year he was hospitalized. However, he was unable to use this leave and consequently lost 25½ days leave on June 30, 1971; 30 days leave on June 30, 1972; 30 days leave on June 30, 1973; and 4½ days leave accumulated from July 1, 1973 through August 25, 1973, a total of 90 days. When he retired, Captain Moore received payment totaling \$2,559.96 for 60 days leave. Any payment in excess of this amount would have been in direct violation of the law (37 U.S.C. 501(f)).

Although he was unable to take ordinary leave, it is noted that during the period Captain Moore was hospitalized, he was granted 96 days convalescent leave and for 178 days was permitted to subsist outside the hospital without charge to ordinary leave as follows:

(a) 20 days convalescent leave—December 18, 1970 through January 6, 1971.

(b) 22 days subsisted away from the hospital—May 4, 1971 through May 25, 1971.

(c) 26 days subsisted away from the hospital—May 28, 1971 through June 22, 1971.

(d) 15 days subsisted away from the hospital—August 3, 1971 through August 17, 1971.

(e) 32 days subsisted away from the hospital—December 17, 1971 through January 17, 1972.

(f) 61 days subsisted away from the hospital—January 21, 1972 through March 22, 1972.

(g) 22 days subsisted away from the hospital—March 31, 1972 through April 21, 1972.

(h) 32 days convalescent leave—July 19, 1972 through August 19, 1972.

(i) 27 days convalescent leave—December 20, 1972 through January 15, 1973.

(j) 17 days convalescent leave—May 25, 1973 through June 10, 1973.

From the foregoing, it is apparent that although Captain Moore was unable to use his ordinary leave, he was permitted to be away from the hospital for more than 270 days during the three and one-half years he was hospitalized. His absence from the hospital during these periods was not charged to his ordinary leave account but exceeded the amount of such leave he could have accumulated.

A number of Air Force members were injured in Vietnam and hospitalized for extended periods following their return to the United States, and, as a result, were credited with ordinary leave in excess of 60 days which they were unable to use. In this respect, Captain Moore's situation does not differ greatly from these other members. However, the injuries sustained by Captain Moore are so severe and so extensive that it is impossible to generalize or equate his total situation with other members who sustained injuries as a result of their service and who lost leave because of their hospitalization. The Air Force is deeply aware of the extent of Captain Moore's disabilities and has attempted to assist him in every possible way and will continue to do so to the extent authorized by law.

As pointed out in the previous discussion, the purpose of ordinary leave, as established by law, is to provide a member with diversions from the day-to-day routine and pressures of his military assignment. However, Congress made an exception to this law in the case of members who were in a missing status. Although payment for 90 days leave to Captain Moore, as proposed in H.R. 9589, is not in accordance with the law, we believe that his case also warrants an exception to the law because of his prolonged hospitalization resulting from extensive injuries incurred as the result of his military duties.

In view of the foregoing, the Air Force would interpose no objection to favorable consideration of H.R. 9589.

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,

Wm. W. WOODRUFF,
Assistant Secretary of the Air Force,
(Financial Management).

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C. January 28, 1974.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your letter dated August 15, 1973, requesting our views on H.R. 9589, a bill for the relief of Captain George Moore, Jr., U.S. Air Force.

This bill would authorize the payment of compensation to Captain Moore for 90 days of leave which he was unable to take because of his extensive hospitalization and convalescent leave following injuries sustained in a plane crash in Vietnam on March 9, 1970, and credit for which was lost under section 701 of title 10 of the United States Code because he accumulated leave in excess of 60 days. Such compensation is to be paid when Captain Moore is discharged from the Air Force, and the amount of the compensation shall be determined in the manner prescribed by section 501 of title 37 of the United States Code for payments of accrued leave authorized by that section. The bill further provides that such compensation shall be in addition to payments of accrued leave to which he may be entitled under section 501 of title 37 of the United States Code, upon his discharge.

The record before us indicates that Captain Moore was in a plane crash on March 8, 1970, at Chu Lai Air Base, Vietnam, and sustained severe injuries resulting in amputation of both legs, his right arm and complete ulnar nerve palsy of the left arm. He was hospitalized on March 23, 1970, at Brooke General Hospital, Fort Sam Houston, Texas, and was transferred to Wilford Hall United States Air Force Medical Center, Lackland Air Force Base, Texas, on June 25, 1970. He was retired for physical disability on August 25, 1973.

Section 701(b) of title 10 of the United States Code provides in pertinent part that a member of an armed force may not accumulate more than 60 days' leave. Section 501(f) of title 37 of the United States Code provides that payment may not be made for leave in excess of 60 days upon discharge or retirement.

Captain Moore had a leave balance of 60 days on July 1, 1971. Prior leave records are unavailable as they were inadvertently destroyed. Leave records for the period from October 1, 1971, through August 24, 1973, show that Captain Moore used no leave from July 1, 1971, through August 24, 1973. Because of the 60-day leave accumulation restriction he lost a total of 90 days of leave as follows: 1971 fiscal year, 25½ days; 1972 fiscal year, 30 days; 1973 fiscal year, 30 days; and at retirement, 4½ days.

While hospitalized at Wilford Hall United States Air Force Medical Center, Captain Moore was granted a total of 92 days' convalescent leave. Additionally, he was absent from the medical center and was subsisted elsewhere for a total of 173 days.

We do not usually view with favor legislation such as H.R. 9589, which grants preferential treatment to an individual over other individuals similarly situated. However, as it appears that special equities exist in Captain Moore's case, in view of the nature of his injuries and his prolonged hospitalization, we would not object to favorable consideration of the bill.

If H.R. 9589 is to receive favorable consideration, there is attached for your consideration a statement indicating suggested changes which we believe should be considered by the committee.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General
of the United States.

Attachment.

SUGGESTED CHANGES IN H.R. 9589

The word "discharge" appearing on page 2, line 5 of H.R. 9589 should be deleted and the word "retirement" substituted as Captain Moore was retired and not discharged from the Air Force.

The words "shall be paid when Captain George Moore, Junior, is discharged from the Air Force, and the amount of compensation" appearing on page 2, lines 7, 8 and 9 of H.R. 9589 should be deleted as he was retired from the Air Force on August 25, 1973.

The date of "March 8, 1970" should be substituted for "March 9, 1970," appearing on page 1, line 10 of H.R. 9589 in view of official information supplied to this Office.

CAPT. GEORGE MOORE, JR., U.S. AIR FORCE

MARCH 19, 1975.—Committed to the Committee of the Whole House
and ordered to be printed

Mr. FLOWERS, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 2109]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2109) for the relief of Capt. George Moore, Jr., of the U.S. Air Force, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 10: Strike "March 9, 1970" and insert "March 8, 1970".

Page 2, line 5: Strike "discharge" and insert "retirement".

Page 2, lines 7, 8 & 9: Strike "shall be paid when Captain George Moore, Junior, is discharged from the Air Force, and the amount of the compensation".

Page 2, line 13: Strike "in excess of 10 per centum thereof."

PURPOSE

The purpose of the proposed legislation, as amended, is to authorize the payment of compensation to Captain George Moore, Jr. for 90 days of leave which he was unable to take because of his extensive hospitalization and convalescent leave following injuries sustained in a plane crash in Vietnam on March 8, 1970, and credit for which was lost under section 701 of title 10 of the United States Code because he accumulated leave in excess of 60 days. The amount of the compensation shall be determined in the manner prescribed by section 501 of title 37 of the United States Code for payments of accrued leave authorized by that section. The bill further provides that such compensation shall be in addition to payments of accrued leave to which he may be entitled under section 501 of title 37 of the United States Code, upon his discharge.

STATEMENT

The Department of the Air Force and the General Accounting Office stated in their reports to the committee that they had no objection to the bill.

Captain Moore was in a plane crash on March 8, 1970, at Chu Lai Air Base, Vietnam, and sustained severe injuries resulting in amputation of both legs, his right arm and complete ulnar nerve palsy of the left arm. He was hospitalized on March 23, 1970, at Brooke General Hospital, Fort Sam Houston, Texas, and was transferred to Wilford Hall United States Air Force Medical Center, Lackland Air Force Base, Texas, on June 25, 1970. He was retired for physical disability on August 25, 1973.

Section 701(b) of title 10 of the United States Code provides in pertinent part that a member of an armed force may not accumulate more than 60 days leave. Section 501(f) of title 37 of the United States Code provides that payment may not be made for leave in excess of 60 days upon discharge or retirement.

Captain Moore had a leave balance of 60 days on July 1, 1971. Prior leave records are unavailable as they were inadvertently destroyed. Leave records for the period from October 1, 1971, through August 24, 1973, show that Captain Moore used no leave from July 1, 1971, through August 24, 1973. Because of the 60 day leave accumulation restriction he lost a total of 90 days of leave as follows: 1971 fiscal year, 25½ days; 1972 fiscal year, 30 days; 1973 fiscal year, 30 days; and at retirement, 4½ days.

While hospitalized at Wilford Hall United States Air Force Medical Center, Captain Moore was granted a total of 92 days convalescent leave. Additionally, he was absent from the medical center and was subsisted elsewhere for a total of 173 days.

The Air Force in its report stated that it believed that Captain Moore's case warrants an exception to the law because of his prolonged hospitalization which resulted from the extensive injuries he incurred as the result of his military duties. The General Accounting Office took a similar position when it stated:

We do not usually view with favor legislation such as H.R. 9589, which grants preferential treatment to an individual over other individuals similarly situated. However, as it appears that special equities exist in Captain Moore's case, in view of the nature of his injuries and his prolonged hospitalization, we would not object to favorable consideration of the bill.

The committee agrees that this is a case which merits legislative relief. It is recommended that the bill, amended to include the corrections suggested by the Comptroller General, be considered favorably.

DEPARTMENT OF THE AIR FORCE,
Washington, July 2, 1974.

HON. PETER W. RODINO,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Air Force with respect to H.R. 9589, 93rd Congress, a bill "For the relief of Captain George Moore, Junior, of the United States Air Force."

The purpose of H.R. 9589 is to authorize the Secretary of the Treasury to pay to Captain George M. Moore, Jr., SSAN 427 842 659, compensation for ninety days leave. The bill states he was unable to take this leave because of his extensive hospitalization and convalescent leave following injuries sustained in a plane crash in Vietnam on March 9, 1970. The bill also states that credit for this leave was lost under section 701, title 10, United States Code, because he had accumulated leave in excess of 60 days. Payment for this leave would be in addition to payments for accrued leave to which he may be entitled under section 501, title 37, United States Code. The bill provides that payment for this leave will be computed in the manner prescribed in section 501, title 37, United States Code, and will be made at the time of Captain Moore's discharge from the Air Force. Agent or attorney fees are limited to ten percent of the amount appropriated by H.R. 9589.

Air Force records show that Captain Moore was commissioned a second lieutenant on October 21, 1966. Following pilot training, he was assigned to duty as a flying officer in the Air Force and served in Southeast Asia from January 27, 1968 through January 26, 1969. He volunteered for a second tour of duty in Southeast Asia, reporting for duty in Vietnam on October 9, 1969. On March 9, 1970, the airplane he was piloting crashed in Vietnam and he suffered severe injuries and was medically air evacuated to Brooke General Hospital, Fort Sam Houston, Texas, March 23, 1970. He was transferred to Wilford Hall, United States Air Force Medical Center, Lackland Air Force Base, Texas, June 25, 1970. He remained in this hospital until his retirement from the Air Force August 25, 1973. He was retired with service-connected disabilities, rated at 100 percent, which resulted from the injuries which he sustained in the airplane crash and which required the amputation of both legs, his right arm and the ulnar nerve, resulting in palsy of the left arm. Captain Moore is currently entitled to retired pay at the rate of \$798.37 a month. As a retired officer, he is eligible for medical treatment in any military or Veterans Administration hospital.

Pertinent laws and regulations governing the accumulation and payment for accrued leave provide:

(a) A member of the uniformed services is entitled to accumulate leave at the rate of 2½ days for each month of active service; however, he cannot accumulate more than 60 days leave (10 U.S.C. 701 (a) and (b)). This leave, normally referred to as ordinary leave, is authorized, primarily, as a paid vacation from duty and is used for travel, recreation and diversion from the day-to-day routine and pressures of Air Force duty assignments (Volume III, Air Force Manual 177-373, Leave Policy and Procedures).

(b) Leave taken during a fiscal year may be charged to leave accumulated during that year without regard to the 60-day limitation. Thus, a member credited with 60 days of leave at the beginning of the fiscal year can accumulate more than 60 days leave but he "loses" any leave in excess of 60 days which is not used by June 30, the end of the fiscal year (10 U.S.C. 701(b)).

(c) A member who serves on active duty for at least 120 days in a hostile fire area may accumulate 90 days leave. Payment for leave in excess of 60 days is not authorized and is "lost" unless used before the end of the fiscal year after the fiscal year in which service in the hostile fire area terminated. (10 U.S.C. 701(f)).

(d) An officer who has leave to his credit at the time of his discharge or retirement is entitled to payment for accrued leave based on the pay and allowances to which he is entitled on date of discharge or retirement. However, he may not be paid for more than 60 days leave (37 U.S.C. 501(b) and (f)).

(e) A member in a missing status is entitled to accumulate leave without regard to the 60 or 90 day limitation. However, leave so accumulated may not be taken but is paid for in a lump-sum payment (10 U.S.C. 701(g)).

(f) A member is entitled to full pay and allowances for any period he is sick or in the hospital without charge to ordinary leave (Chapter 3, Volume III, Air Force Manual 177-373, Leave Policy and Procedures).

(g) A member who is sick or in the hospital may be granted convalescent leave upon the recommendation of the physician most familiar with the member's condition (Chapter 3, Volume III, Air Force Manual 177-373, Leave Policy and Procedures).

(h) A hospital commander may release a member who is a patient while continuing the patient's treatment on an "excused from duty" basis without charge to ordinary leave. During this period, the patient is permitted to subsist outside the hospital and may live in a dormitory, bachelor officers' quarters or at home (Paragraph 4-31, Air Force Manual 168-4, Administration of Medical Activities).

In Captain Moore's case, there is no record that he accumulated ordinary leave in excess of 60 days prior to his service in Southeast Asia and which he would have been required to "use or lose" before June 30, 1970, or that he "lost" any leave prior to June 30, 1970. He was hospitalized continuously from March 9, 1970 until August 25, 1973, the date he retired, and was credited with 30 days ordinary leave each year he was hospitalized. However, he was unable to use this leave and consequently lost 25½ days leave on June 30, 1971; 30 days leave on June 30, 1972; 30 days leave on June 30, 1973; and 4½ days leave accumulated from July 1, 1973 through August 25, 1973, a total of 90 days. When he retired, Captain Moore received payment totaling \$2,559.96 for 60 days leave. Any payment in excess of this amount would have been in direct violation of the law (37 U.S.C. 501(f)).

Although he was unable to take ordinary leave, it is noted that during the period Captain Moore was hospitalized, he was granted 96 days convalescent leave and for 178 days was permitted to subsist outside the hospital without charge to ordinary leave as follows:

(a) 20 days convalescent leave—December 18, 1970 through January 6, 1971.

(b) 22 days subsisted away from the hospital—May 4, 1971 through May 25, 1971.

(c) 26 days subsisted away from the hospital—May 28, 1971 through June 22, 1971.

(d) 15 days subsisted away from the hospital—August 3, 1971 through August 17, 1971.

(e) 32 days subsisted away from the hospital—December 17, 1971 through January 17, 1972.

(f) 61 days subsisted away from the hospital—January 21, 1972 through March 22, 1972.

(g) 22 days subsisted away from the hospital—March 31, 1972 through April 21, 1972.

(h) 32 days convalescent leave—July 19, 1972 through August 19, 1972.

(i) 27 days convalescent leave—December 20, 1972 through January 15, 1973.

(j) 17 days convalescent leave—May 25, 1973 through June 10, 1973.

From the foregoing, it is apparent that although Captain Moore was unable to use his ordinary leave, he was permitted to be away from the hospital for more than 270 days during the three and one-half years he was hospitalized. His absence from the hospital during these periods was not charged to his ordinary leave account but exceeded the amount of such leave he could have accumulated.

A number of Air Force members were injured in Vietnam and hospitalized for extended periods following their return to the United States, and, as a result, were credited with ordinary leave in excess of 60 days which they were unable to use. In this respect, Captain Moore's situation does not differ greatly from these other members. However, the injuries sustained by Captain Moore are so severe and so extensive that it is impossible to generalize or equate his total situation with other members who sustained injuries as a result of their service and who lost leave because of their hospitalization. The Air Force is deeply aware of the extent of Captain Moore's disabilities and has attempted to assist him in every possible way and will continue to do so to the extent authorized by law.

As pointed out in the previous discussion, the purpose of ordinary leave, as established by law, is to provide a member with diversions from the day-to-day routine and pressures of his military assignment. However, Congress made an exception to this law in the case of members who were in a missing status. Although payment for 90 days leave to Captain Moore, as proposed in H.R. 9589, is not in accordance with the law, we believe that his case also warrants an exception to the law because of his prolonged hospitalization resulting from extensive injuries incurred as the result of his military duties.

In view of the foregoing, the Air Force would interpose no objection to favorable consideration of H.R. 9589.

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,

WM. W. WOODRUFF,
Assistant Secretary of the Air Force,
(Financial Management).

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., January 28, 1974.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your letter dated August 15, 1973, requesting our views on H.R. 9589, a bill for the relief of Captain George Moore, Jr., United States Air Force.

This bill would authorize the payment of compensation to Captain Moore for 90 days of leave which he was unable to take because of his extensive hospitalization and convalescent leave following injuries sustained in a plane crash in Vietnam on March 9, 1970, and credit for which was lost under section 701 of title 10 of the United States Code because he accumulated leave in excess of 60 days. Such compensation is to be paid when Captain Moore is discharged from the Air Force, and the amount of the compensation shall be determined in the manner prescribed by section 501 of title 37 of the United States Code for payments of accrued leave authorized by that section. The bill further provides that such compensation shall be in addition to payments of accrued leave to which he may be entitled under section 501 of title 37 of the United States Code, upon his discharge.

The record before us indicates that Captain Moore was in a plane crash on March 8, 1970, at Chu Lai Air Base, Vietnam, and sustained severe injuries resulting in amputation of both legs, his right arm and complete ulnar nerve palsy of the left arm. He was hospitalized on March 23, 1970, at Brooke General Hospital, Fort Sam Houston, Texas, and was transferred to Wilford Hall United States Air Force Medical Center, Lackland Air Force Base, Texas, on June 25, 1970. He was retired for physical disability on August 25, 1973.

Section 701(b) of title 10 of the United States Code provides in pertinent part that a member of an armed force may not accumulate more than 60 days' leave. Section 501(f) of title 37 of the United States Code provides that payment may not be made for leave in excess of 60 days upon discharge or retirement.

Captain Moore had a leave balance of 60 days on July 1, 1971. Prior leave records are unavailable as they were inadvertently destroyed. Leave records for the period from October 1, 1971, through August 24, 1973, show that Captain Moore used no leave from July 1, 1971, through August 24, 1973. Because of the 60-day leave accumulation restriction he lost a total of 90 days of leave as follows: 1971 fiscal year, 25½ days; 1972 fiscal year, 30 days; 1973 fiscal year, 30 days; and at retirement, 4½ days.

While hospitalized at Wilford Hall United States Air Force Medical Center, Captain Moore was granted a total of 92 days' convalescent leave. Additionally, he was absent from the medical center and was subsisted elsewhere for a total of 173 days.

We do not usually view with favor legislation such as H.R. 9589, which grants preferential treatment to an individual over other individuals similarly situated. However, as it appears that special equities exist in Captain Moore's case, in view of the nature of his injuries and

his prolonged hospitalization, we would not object to favorable consideration of the bill.

If H.R. 9589 is to receive favorable consideration, there is attached for your consideration a statement indicating suggested changes which we believe should be considered by the committee.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General
of the United States.

Attachment.

SUGGESTED CHANGES IN H.R. 9589

The word "discharge" appearing on page 2, line 5 of H.R. 9589 should be deleted and the word "retirement" substituted as Captain Moore was retired and not discharged from the Air Force.

The words "shall be paid when Captain George Moore, Junior, is discharged from the Air Force, and the amount of compensation" appearing on page 2, lines 7, 8 and 9 of H.R. 9589 should be deleted as he was retired from the Air Force on August 25, 1973.

The date of "March 8, 1970" should be substituted for "March 9, 1970," appearing on page 1, line 10 of H.R. 9589 in view of official information supplied to this Office.

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

For the relief of Captain George Moore, Junior, of the United States Air Force.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Captain George Moore, Junior, United States Air Force, of San Antonio, Texas, compensation, in accordance with subsection (b), for ninety days of leave which he was unable to take because of his extensive hospitalization and convalescent leave following injuries sustained in a plane crash in Vietnam on March 8, 1970, and credit for which was lost under section 701 of title 10 of the United States Code because he accumulated leave in excess of sixty days. The compensation to be paid under this subsection shall be in addition to payments for accrued leave to which he may be entitled under section 501 of title 37 of the United States Code upon his retirement.

(b) The compensation to be paid under subsection (a) shall be determined in the manner prescribed in section 501 of title 37 of the United States Code for payments for accrued leave authorized by that section.

SEC. 2. No part of the amount appropriated in the first section of this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

Speaker of the House of Representatives.

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

17
June 27, 1975

Dear Mr. Director:

The following bills were received at the White House on June 27th:

S.J. Res. 98 ✓	H.R. 1421 ✓	H.R. 3382 ✓
S. 2003 ✓	H.R. 1510 ✓	H.R. 3526 ✓
H.R. 1387 ✓	H.R. 1556 ✓	H.R. 5217 ✓
H.R. 1388 ✓	H.R. 1649 ✓	H.R. 6900 ✓
H.R. 1393 ✓	H.R. 2109 ✓	H.R. 7709 ✓
H.R. 1408 ✓	H.R. 2119 ✓	H.R. 8030 ✓
H.R. 1410 ✓	H.R. 2946 ✓	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.