



**House
Legislative
Analysis
Section**

105 20 000
Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

EXEMPT AGENT ORANGE PAYMENTS

House Bill 5469 as introduced
Sponsor: Rep. Ken DeBeaussiaert

House Bill 5470 as introduced
Sponsor: Rep. Robert DeMars

House Bill 5471 as introduced
Sponsor: Rep. Lynn Owen

Committee: Military and Veterans Affairs
First Analysis (5-14-90)

THE APPARENT PROBLEM:

As the result of a 1979 class action product liability lawsuit filed by Vietnam veterans, their surviving spouses, and their families against the chemical manufacturers of Agent Orange, the powerful chemical defoliant widely sprayed by American armed forces in Vietnam during the Vietnam War, a national Agent Orange Settlement Fund was set up. The fund began payments in March, 1989, to totally disabled Vietnam veterans and the dependents and survivors of dead Vietnam veterans. On December 6, 1989, the president signed Public Law Number 101-201, which bars federal and federally-assisted programs from counting Agent Orange payment money as income for income-based services and programs (such as Supplemental Security Income, Aid to Families with Dependent Children, Medicaid, and various food and nutritional programs, including food stamps and Women, Infants, and Children). A number of states (including New Jersey, New York, Iowa, Maine, Oklahoma, Ohio, Wisconsin, and Virginia) also have adopted laws exempting Agent Orange payments from state income-based services and programs. At the request of the Vietnam Veterans of America, legislation has been introduced that would protect Michigan Vietnam veterans from losing benefits from state income-based services and programs because of Agent Orange Settlement Fund payments.

THE CONTENT OF THE BILLS:

The bills would exempt Agent Orange payments from consideration in determining income-based state benefits.

House Bill 5469 would create the Agent Orange Award Exemption Act, prohibiting state departments or agencies that granted assistance, provided services, or charged for services based on income level from considering Agent Orange payments as income or resources. The other bills would amend the relevant sections of the Social Welfare Act (House Bill 5470, MCL 400.56g and 400.106) and the job training services act (House Bill 5471, MCL 421.151).

BACKGROUND INFORMATION:

The Agent Orange settlement payments, which are completely separate from federal Veterans Administration benefits, are relatively modest, averaging less than \$1,000 a year. To qualify for payments, the Vietnam veteran must have served in an area where Agent Orange had been sprayed and must be totally disabled according to Social Security standards. The disability cannot be from a

traumatic injury (such as a car accident, work injury, and so on), and the amount of the award depends on the age of the veteran, when he or she became totally disabled, whether he or she is married or single, and how many dependents he or she has. Awards to surviving spouses, dependent children, and parents of unmarried veterans are based on the same criteria (suicide is not a qualifying cause), with the amount actually awarded depending on when the veteran died. Basically, the major disabilities covered are Agent Orange related cancers — leukemias (blood cancers), lymphomas (cancers of the lymphatic system), and so on. Payment of benefits under the program vary, but the maximum benefit for total disability is \$12,000, spread over yearly payments from 1984 to December 31, 1994, when the program ends. Survivors of a veteran who has died receive a lump sum, one-time payment that averages between \$3,000 and \$3,400. Since the inception of the program in January, 1989, there have been approximately 350 awards made in Michigan.

FISCAL IMPLICATIONS:

An analysis by the Department of Social Services (4-6-90) says that there will be an unknown cost to the state, but assumes that the impact will be minimal because of the relatively small number of award recipients.

ARGUMENTS:

For:

Without laws passed to exempt Agent Orange payments from being considered income in determining benefits for income-based state programs, many Vietnam war veterans or their survivors would have their state benefits reduced or stopped completely. As traumatizing as the Vietnam war may have been to the nation as a whole, in some ways it is still the veterans of that war and their families who are paying the highest emotional and financial costs of the war. Many veterans were not happy with the final settlement of the Agent Orange product liability suit in the first place, considering the amounts awarded by the settlement program to be far too small, particularly when compared to comparable awards made in cases of private injury. To further penalize veterans and their surviving families by reducing or eliminating state income-based services by considering these small payments as income is to add further injury to these veterans and their families who have already paid so much in the service of their country.

H.B. 5469, 5470, & 5471 (5-14-90)

Against:

The bills would treat Agent Orange settlement awards differently than other, similar awards for injuries such as worker's compensation and veteran's disability benefits.

Response: Given what many consider to be the shoddy treatment Vietnam veterans have received from their government in repayment for their service to their country, it seems only fair to exempt these extremely modest payments from being considered when deciding income-based state benefits.

POSITIONS:

The Department of Public Health supports the bills. (5-4-90)

The Department of Social Services supports the bills. (5-4-90)

The Agent Orange Commission (in the Department of Public Health) supports the bills. (5-9-90)

The Commanders Group (which consists of the commanders of the congressionally chartered veterans' organizations) supports the bills. (5-8-90)

The Viet Nam Veterans of America/Michigan Chapter supports the bills. (5-9-90)

The American Legion supports the bills. (5-9-90)

The AMVETS (American Veterans of World War II, Korea, and Vietnam) supports the bills. (5-9-90)

The board of the Veterans' Trust Fund (in the Department of Management and Budget) supports the concept of the bills. (5-14-90)

The Department of Military and Veterans Affairs supports the bills. (5-14-90)