

From: Lisa J. Macecevic on 03/29/2000 12:20:26 PM

Record Type: Record

To: See the distribution list at the bottom of this message

CC:

Subject: LRM LJM133 - - JUSTICE Report on HR371 Hmong Veterans' Naturalization Act of 1999

Following is LJM133--a DoJ letter on the Hmong Veterans' Naturalization Act (and bill text for your reference).

**HR371 is scheduled for a full Judiciary Ctte markup TOMORROW morning.
Please respond with any comments by 4:00 PM TODAY.**

Thank you.

Letter-->  - hmong01.let.wpd

Bill Text--> HR 371 IH.do

----- Forwarded by Lisa J. Macecevic/OMB/EOP on 03/29/2000 12:24 PM -----

LRM ID: LJM133

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Wednesday, March 29, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Lisa J. Macecevic

PHONE: (202)395-1092 FAX: (202)395-3109

SUBJECT: **JUSTICE Report on HR371 Hmong Veterans' Naturalization Act of 1999**

DEADLINE: **4:00 PM Wednesday, March 29, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Attached is a DoJ letter on the Hmong Veterans' Naturalization Act (and bill text for your reference).

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Please respond with any comments by 4:00 PM TODAY.

Thank you.

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SUBJECT: JUSTICE Report on HR371 Hmong Veterans' Naturalization Act of

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

(2) sending us a memo or letter

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

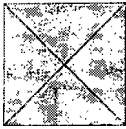
_____ See proposed edits on pages _____

_____ Other: _____

FAX RETURN of _____ pages, attached to this response sheet

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U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on H.R. 371, the ~~XXXX~~Hmong Veterans Naturalization Act of 1999.~~XX~~ The Department appreciates the courage of the Hmong veterans who would benefit from enactment of this legislation, as well as the particular challenge that the English and civics requirements for naturalization present to many such veterans and their spouses. We support this bill but would like to share with you several technical comments about H.R. 371 as introduced.

Specific Bill Comments

Section 2 of the bill would require that eligible applicants have served in Laos in support of the United States military at any time during the period beginning February 28, 1961, and ending September 18, 1978 (or be spouses of such eligible applicants). We note that 38 U.S.C. 101(29) defines the ~~XXXX~~Vietnam era~~XX~~ for purposes of United States veterans benefit law as the period of August 5, 1964 through May 7, 1975. Given that the Hmong veterans need to have served ~~XX~~in support of the United States military,~~XX~~ it is unclear why the applicable period of hostilities would be defined differently in this bill for Hmong guerillas or irregular fighters than it is in the applicable law for the United States servicemen in whose support they operated.

Section 5(3) states that in determining eligibility for exemption and special consideration, the Attorney General shall request an advisory opinion from the Secretary of Defense. However, the bill does not require the Department of Defense to provide the advisory opinion. Furthermore, no provision is made regarding how the Attorney General shall proceed if the Department of Defense is unable to provide an advisory opinion. It is not necessarily the case that in every situation a Department of Defense opinion would be needed to determine eligibility. In the interest of flexibility, we recommend amending this clause to provide that the Attorney General may request an advisory opinion; that upon request, the Secretary of Defense shall provide the requested opinion to the extent possible; and that the Attorney General shall take into account any opinion that the Secretary of Defense is able to provide.

Section 7 provides that the total number of aliens who may be granted an exemption under section 2 or special consideration under section 3, or both, may not exceed 45,000. If deserving Hmong veterans or their spouses otherwise qualify for the benefits provided by this legislation, we question why it would be appropriate or necessary to deny them because of this cap. We also note that this provision is likely to cause uncertainty among the beneficiaries of this legislation. It also would result in the establishment of administrative and record-keeping requirements to administer the cap on the part of the INS.

Thank you for the opportunity to provide our views. Please do not hesitate to call upon us if we may be of further assistance. The Office of Management and Budget has advised us that, from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

Robert Raben
Assistant Attorney General

IDENTICAL LETTER SENT TO THE HONORABLE JOHN CONYERS, JR.

HR 371 IH

106th CONGRESS

1st Session

H. R. 371

To expedite the naturalization of aliens who served with special guerrilla units in Laos.

IN THE HOUSE OF REPRESENTATIVES

January 19, 1999

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

A BILL

To expedite the naturalization of aliens who served with special guerrilla units in Laos.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Hmong Veterans' Naturalization Act of 1999'.

SEC. 2. EXEMPTION FROM ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.

The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)) shall not apply to the naturalization of any person--

(1) who--

(A) was admitted into the United States as a refugee from Laos pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); and

(B) served with a special guerrilla unit, or irregular forces, operating from a base in Laos in support of the United States military at any time during the period beginning February 28, 1961, and ending September 18, 1978; or

(2) who--

(A) satisfies the requirement of paragraph (1)(A); and

(B) was the spouse of a person described in paragraph (1) on the day on which such described person applied for admission into the United States as a refugee.

SEC. 3. SPECIAL CONSIDERATION CONCERNING CIVICS REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.

The Attorney General shall provide for special consideration, as determined by the Attorney General, concerning the requirement of paragraph (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(2)) with respect to the naturalization of any person described in paragraph (1) or (2) of section 2 of this Act.

SEC. 4. DOCUMENTATION OF QUALIFYING SERVICE.

A person seeking an exemption under section 2 or special consideration under section 3 shall submit to the Attorney General documentation of their, or their spouse's, service with a special guerrilla unit, or irregular forces, described in section 2(1)(B), in the form of--

(1) original documents;

(2) an affidavit of the serving person's superior officer;

(3) two affidavits from other individuals who also were serving with such a special guerrilla unit, or irregular forces, and who personally knew of the person's service; or

(4) other appropriate proof.

SEC. 5. DETERMINATION OF ELIGIBILITY FOR EXEMPTION AND SPECIAL CONSIDERATION.

In determining a person's eligibility for an exemption under section 2 or special consideration under section 3, the Attorney General--

(1) shall review the refugee processing documentation for the person, or, in an appropriate case, for the person and the person's spouse, to verify that the requirements of section 2 relating to refugee applications and admissions have been satisfied;

(2) shall consider the documentation submitted by the person under section 4;

(3) shall request an advisory opinion from the Secretary of Defense regarding the person's, or their spouse's, service in a special guerrilla unit, or irregular forces, described in section 2(1)(B) and shall take into account that opinion; and

(4) may consider any certification prepared by the organization known as 'Lao Veterans of America, Inc.', or any similar organization maintaining records with respect to Hmong veterans or their families.

SEC. 6. DEADLINE FOR APPLICATION AND PAYMENT OF FEES.

This Act shall apply to a person only if the person's application for naturalization is filed, as provided in section 334 of the Immigration and Nationality Act (8 U.S.C. 1445), with appropriate fees not later than 18 months after the date of the enactment of this Act.

SEC. 7. LIMITATION ON NUMBER OF BENEFICIARIES.

Notwithstanding any other provision of this Act, the total number of aliens who may be granted an exemption under section 2 or special consideration under section 3, or both, may not exceed 45,000.

Amend the title of the bill to read as follows: 'A bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.'

END