

# Calendar No. 1830

87TH CONGRESS }  
2d Session }

SENATE }

REPORT  
No. 1868

## REPEAL OF OBSOLETE PROVISIONS IN TITLE 38, UNITED STATES CODE

—————  
AUGUST 9, 1962.—Ordered to be printed  
—————

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

### REPORT

[To accompany H.R. 860]

The Committee on Finance, to whom was referred the bill (H.R. 860) to repeal certain obsolete provisions of title 38, United States Code, relating to unemployment compensation for Korean conflict veterans, having considered the same, report favorably thereon with an amendment, and recommend that the bill, as amended, do pass.

#### PURPOSE OF BILL

The purpose of H.R. 860 is to repeal the obsolete provisions of title 38, United States Code, which relate to the unemployment compensation program for Korean conflict veterans as set forth in subchapter 1 of chapter 41.

#### PURPOSE OF AMENDMENT

The committee adopted a savings amendment recommended by the Department of Labor to protect the rights of veterans whose claims are awaiting adjudication of entitlement in the States.

#### GENERAL STATEMENT

A Presidential proclamation terminated benefits under Public Law 550, 82d Congress—the so-called Korean GI bill of rights—as of January 31, 1955. In the case of individuals who were in the service on that date, educational benefits continued to accrue for the first period of service after that date. Those serving today are not accruing eligibility for unemployment compensation under this law.

The operating phase of the program with respect to unemployment compensation was terminated over 1 year ago, since benefits are not payable thereunder for any benefit week beginning after January 31, 1960. Unemployment compensation upon separation from service in the Armed Forces are now payable in accordance with the various State unemployment compensation programs authorized under title XV of the Social Security Act.

Although no unemployment benefits are payable under Public Law 550, 82d Congress, pending claims in the States are still awaiting adjudication of entitlement. The language of the committee amendment provides that pending claims shall be adjudicated as if the program had not been repealed, and preserves the powers and duties of the Secretary of Labor, and the applicable rules and regulations established by the Secretary, for the purpose of administering the program with respect to such claims.

The penalties applicable to any violation of the program being repealed are still in effect, as provided in section 108 of title I, United States Code.

DEPARTMENTAL REPORTS

VETERANS' ADMINISTRATION,  
March 23, 1961.

HON. HARRY F. BYRD,  
*Chairman, Committee on Finance,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR BYRD: The following comments are furnished in response to your request for a report by the Veterans' Administration on H.R. 860, 87th Congress, as passed by the House of Representatives on March 6, 1961.

This bill proposes to repeal those provisions of title 38, United States Code, which relate to the unemployment compensation program for Korean conflict veterans and which now are set forth as subchapter I of chapter 41. The program, originally enacted by title IV of the Veterans' Readjustment Assistance Act of 1952, is administered by the Secretary of Labor.

Like the other readjustment programs established by the 1952 act, unemployment compensation was intended to aid the return to civil life of persons who performed active service during the Korean conflict. The program was established on a temporary basis and section 2009 of title 38 provides that no unemployment compensation may be paid under the program for any benefit week which begins after January 31, 1960.

Since we do not administer this program we cannot advise as to the timeliness of this legislation and, therefore, defer to the views of the Department of Labor. We understand that you have requested a report from that Department on this bill.

We were advised by the Bureau of the Budget that there would be no objection from the standpoint of the administration's program to the presentation of a similar report on this bill to the Committee on Veterans' Affairs, House of Representatives.

Sincerely,

J. S. GLEASON, Jr., *Administrator.*

DEPARTMENT OF LABOR,  
Washington, D.C.

HON. HARRY F. BYRD,  
Chairman, Committee on Finance, U.S. Senate,  
Washington, D.C.

DEAR SENATOR BYRD: This is in further response to your request for a report on H.R. 860, a bill to repeal certain obsolete provisions of title 38, United States Code, relating to unemployment compensation for Korean conflict veterans as passed by the House of Representatives on March 6, 1961.

The operating phase of the program to which this bill relates was terminated over 1 year ago, since benefits are not payable under the program for any benefit week beginning after January 31, 1960. We believe, however, that repeal of these provisions is premature, and that enactment of a bill such as H.R. 860 should be postponed until such time as we can advise the committee that the provisions are no longer needed. We feel sure that claims are still awaiting adjudication of entitlement in the States and that prosecutions for fraud are in progress. In addition, collection of overpayments, disposal of records, and other matters are still pending.

If H.R. 860 receives favorable consideration under these circumstances, we suggest that the bill be amended to include certain savings provisions. As you know, Public Law 85-857, 72 Stat. 1105, effective January 1, 1959, repealed some of the laws dealing with veterans. Provisions of laws not repealed, including the provisions which are the subject of H.R. 860, were recodified and enacted as positive law in title 38 of the United States Code. Also included in Public Law 85-857 were savings provisions applicable to laws that were repealed. Sections 3, 4, 6, 7, and 9 of the act saved certain provisions relating to (1) penalties and forfeitures, (2) powers vested in the President and the Veterans' Administrator, (3) appropriations, (4) rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs, and (5) pending or future claims for benefits for a period prior to the effective date of the act. If H.R. 860 is enacted, we recommend that appropriate savings provisions be included therein.

The Bureau of the Budget advises that there would be no objection to the submission of the proposed report to the committee from the standpoint of the administration's program.

Yours sincerely,

ARTHUR J. GOLDBERG,  
Secretary of Labor.

## CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

## CHAPTER 41—UNEMPLOYMENT BENEFITS FOR VETERANS

### [SUBCHAPTER I—UNEMPLOYMENT COMPENSATION

- [2001. Compensation for veterans under State agreements.
- [2002. Unemployment compensation in absence of State agreements.
- [2003. Payments to States.
- [2004. Information.
- [2005. Penalties.
- [2006. Regulations.
- [2007. Definitions.
- [2008. Nonduplication of benefits.
- [2009. Terminations

### [SUBCHAPTER II—EMPLOYMENT SERVICE FOR VETERANS] <sup>1</sup>

- [2010.] *2001.* Purpose.
- [2011.] *2002.* Assignment of veterans' employment representative.
- [2012.] *2003.* Employees of local offices.
- [2013.] *2004.* Cooperation of Federal agencies.
- [2014.] *2005.* Estimate of funds for administration.

### Subchapter I—Unemployment Compensation

#### [§ 2001. Compensation for veterans under State agreements

[(a) The Secretary of Labor is authorized on behalf of the United States to enter into an agreement with any State, or with the agency administering the unemployment compensation law of such State, under which such State agency (1) will make, as agent of the United States, payments of unemployment compensation to Korean conflict veterans, in accordance with the provisions of this chapter, and (2) will otherwise cooperate with the Secretary, and with other State agencies, in making payments of unemployment compensation under this chapter.

[(b) Any such agreement shall, except as provided in section 2008 of this title, provide that unemployment compensation at the rate of \$26 per week will be paid by the State to any Korean conflict veteran in such State with respect to weeks of unemployment (not in excess of a total of twenty-six weeks). If a Korean conflict veteran is eligible to receive mustering-out payment under section 2102 of this title, he shall not be eligible to receive unemployment compensation under this chapter with respect to weeks of unemployment completed within thirty days after his discharge or release, if he receives \$100 in such mustering-out payment; within sixty days after his discharge or release if he receives \$200 in such mustering-out payment; or within ninety days after his discharge or release if he receives \$300 in such mustering-out payment.

[(c) Any such agreement shall provide that any determination by a State agency with respect to entitlement to unemployment compensation pursuant to an agreement under this section shall be made

<sup>1</sup> Section (e) of the bill continues the benefits of sections 2001 through 2009 insofar as necessary in the adjudication of claims pending on date of enactment.

in accordance with the State unemployment compensation law, insofar as such law is applicable, and shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

[(d) Each agreement shall provide the terms and conditions upon which it may be amended or terminated.

[(e) Each agreement entered into pursuant to title IV of the Veterans' Readjustment Assistance Act of 1952 shall be deemed to have been entered into pursuant to this chapter.

[(f) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title IV of the Veterans' Readjustment Assistance Act of 1952.

### **§ 2002. Unemployment compensation in absence of State agreements**

[(a) In the case of a Korean conflict veteran who is in a State which has no agreement under this chapter with the Secretary of Labor, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for unemployment compensation under this subsection, make payments of unemployment compensation to him in the same amounts and for the same periods as provided in section 2001(b) of this title. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the State unemployment compensation law of the State in which the veteran is insofar as such law is applicable.

[(b) In the case of a Korean conflict veteran who is in Puerto Rico or in the Virgin Islands, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for unemployment compensation under this subsection, make payments of unemployment compensation to him in the same amounts and for the same periods as provided in section 2001(b) of this title. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the unemployment compensation law of the District of Columbia insofar as such law is applicable.

[(c) Any Korean conflict veteran whose claim for unemployment compensation under subsection (a) or (b) of this section has been denied shall be entitled to a fair hearing in accordance with regulations prescribed by the Secretary. Any final determination by the Secretary with respect to entitlement to unemployment compensation under this section shall be subject to review by the courts in the same manner and to the extent as is provided in section 405(g) of title 42, with respect to final decisions of the Secretary of Health, Education, and Welfare under such title.

[(d) The Secretary may utilize for the purposes of this section the personnel and facilities of the agencies in Puerto Rico and the Virgin Islands cooperating with the United States Employment Service under sections 49-49c, 49d-49k of title 29. For the purpose of payments made to such agencies under such Act, the furnishing of such personnel and facilities shall be deemed to be a part of the administration of the public employment offices of such agencies.

**§ 2003. Payments to States**

[(a) Each State shall be entitled to be paid by the United States an amount equal to payments of unemployment compensation made by such State under and in accordance with an agreement under this chapter.

[(b) In making payments pursuant to subsection (a) of this section there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, such sum as the Secretary estimates the State will be entitled to receive under this chapter for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

[(c) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State sums payable to such State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this chapter.

[(d) All money paid to a State under this chapter shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this chapter, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this chapter may be made.

[(e) An agreement under this chapter may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

[(f) No person designated by the Secretary, or designated pursuant to an agreement under this chapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any unemployment compensation certified by him under this chapter.

[(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f) of this section.

[(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by the State agency of such State pursuant to an agreement under this chapter shall be deemed to be a part of the administration of the State unemployment compensation law.

**§ 2004. Information**

[(a) All Federal departments and agencies shall make available to State agencies which have agreements under this chapter or to the Secretary, as the case may be, such information with respect to military service of any veteran as the Secretary may find practicable

and necessary for the determination of such veteran's entitlement to unemployment compensation under this chapter.

[(b) The agency administering the unemployment compensation law of any State shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carrying out the provisions of this chapter, and such information shall be deemed reports required by the Secretary for the purposes of paragraph (6) of subsection (a) of section 503 of title 42.

**[§ 2005. Penalties**

[(a) Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under this chapter or under an agreement thereunder shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

[(b) Any person who makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false or knowingly fails, or causes another to fail, to disclose a material fact, and, as a result thereof, has received any amount as unemployment compensation under this chapter to which he was not entitled, shall be liable to repay such amount to the State agency or the Secretary of Labor, as the case may be, for the fund from which the amount was paid or, in the discretion of the State agency or the Secretary, as the case may be, to have such amount deducted from any future unemployment compensation payable to him under this chapter within the two-year period following the finding, if the existence of such non-disclosure or misrepresentation has been found by a court of competent jurisdiction or in connection with a reconsideration or appeal.

**[§ 2006. Regulations**

[The Secretary is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this chapter. The Secretary shall, insofar as practicable, consult with representatives of the State unemployment compensation agencies before prescribing any rules or regulations which may affect the performance by such agencies of functions pursuant to agreements under this chapter.

**[§ 2007. Definitions**

[When used in this subchapter—

[(a) The term "Korean conflict veteran" means any person who has served in the active service in the Armed Forces at any time on or after June 27, 1950, and before February 1, 1955, and who has been discharged or released from such active service under conditions other than dishonorable after continuous service of ninety days or more, or by reason of an actual service-incurred injury or disability.

[(b) The term "unemployment compensation" means the money payments to individuals with respect to their unemployment.

[(c) The term "State" includes Puerto Rico, the Virgin Islands and the District of Columbia.<sup>2</sup>

<sup>2</sup> Paragraph amended by sec. 29(b), Public Law 86-70, and by sec. 25(c), Public Law 86-624.

**【§ 2008. Nonduplication of benefits**

【(a) Notwithstanding any other provision of this chapter, no payment shall be made under any agreement under this chapter, or, in the absence of such an agreement, by the Secretary under this chapter to a veteran—

【(1) for any week or any part of a week he is eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) to receive unemployment benefits at a rate equal to or in excess of \$26 per week under any Federal or State unemployment compensation law;

【(2) for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c) or (d) of section 1632 of this title or a subsistence allowance under chapter 31 of this title or section 12(a) of the Act enacting this title; or

【(3) for any period he receives additional compensation necessary for his maintenance under section 756(b)(2) of title 5.

【(b) In any case in which, for any week or any part of a week, a veteran is eligible for payment of unemployment compensation under this chapter and is also eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) to receive for such week or such part of a week unemployment benefits at a rate of less than \$26 per week under any Federal or State unemployment compensation law, such veteran may elect to receive payment of unemployment compensation under this chapter; but if the veteran so elects, the amount of unemployment compensation payable under this chapter shall be reduced by the amount of such unemployment compensation benefits for which such veteran is eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) under such Federal or State unemployment compensation law.

【(c) If the veteran elects under subsection (b) to receive payment of unemployment compensation under this chapter, he shall be entitled to unemployment compensation at the rate of \$26 per week after the exhaustion of State unemployment benefits until the total unemployment compensation received under this chapter and title IV of the Veterans' Readjustment Assistance Act of 1952 equals \$676.

【(d) Under no circumstances shall any veteran receive unemployment compensation under this chapter and title IV of the Veterans' Readjustment Assistance Act of 1952 from more than one State at one time or in a total amount in excess of \$676.

**【§ 2009. Terminations**

【(a) No unemployment compensation shall be paid under this chapter for any benefit week which begins more than three years after the effective date of the discharge or release prescribed in section 2007(a) of this title.

【(b) In no event shall unemployment compensation be paid under this chapter for any benefit week which begins after January 31, 1960.】

**Subchapter II—Employment Service for Veterans**

**§ [2010.] 2001. Purpose**

The Congress declares as its intent and purpose that there shall be an effective job counseling and employment placement service for veterans of any war, and that, to this end, policies shall be promulgated and administered, so as to provide for them the maximum of job opportunity in the field of gainful employment.

**§ [2011.] 2002. Assignment of veterans' employment representative**

The Secretary of Labor shall assign to each of the States a veterans' employment representative, who shall be a veteran of any war, who at the time of appointment shall have been a bona fide resident of the State for at least two years, and who shall be appointed in accordance with the civil-service laws, and whose compensation shall be fixed in accordance with the Classification Act of 1949. Each such veterans' employment representative shall be attached to the staff of the public employment service in the State to which he has been assigned. He shall be administratively responsible to the Secretary of Labor, for the execution of the Secretary's veterans' placement policies through the public employment service in the State. In cooperation with the public employment service staff in the State, he shall—

- (1) be functionally responsible for the supervision of the registration of veterans of any war in local employment offices for suitable types of employment and for placement of veterans of any war in employment;
- (2) assist in securing and maintaining current information as to the various types of available employment in public works and private industry or business;
- (3) promote the interests of employers in employing veterans of any war;
- (4) maintain regular contact with employers and veterans' organizations with a view of keeping employers advised of veterans of any war available for employment and veterans of any war advised of opportunities for employment; and
- (5) assist in every possible way in improving working conditions and the advancement of employment of veterans of any war.

**§ [2012.] 2003. Employees of local offices**

Where deemed necessary by the Secretary of Labor, there shall be assigned by the administrative head of the employment service in the State one or more employees, preferably veterans of any war, of the staffs of local employment service offices, whose services shall be primarily devoted to discharging the duties prescribed for the veterans' employment representative.

**§ [2013.] 2004. Cooperation of Federal agencies.**

All Federal agencies shall furnish the Secretary such records, statistics, or information as may be deemed necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment opportunities for veterans of any war.

§ [2014.] 2005. Estimate of funds for administration.

The Secretary shall estimate the funds necessary for the proper and efficient administration of this [subchapter] *chapter*; such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel and communications. Sums thus estimated shall be included as a special item in the annual budget of the Bureau of Employment Security. Any funds appropriated pursuant to this special item as contained in the budget of the Bureau of Employment Security shall not be available for any purpose other than that for which they were appropriated, except with the approval of the Secretary.

