Evidently your reference in the last paragraph of your question to Section 3 of Chapter 212 of the Acts of 1941, being amended in 1951 and 1953, refers to the amendments of Section 1 of said Act, Burns' (1955 Supp.), Section 28-3514, as Section 3 does not appear to have been amended. The amendment to Section 1 of said Act does not affect the result reached above.

OFFICIAL OPINION NO. 7

April 2, 1957

Honorable Roy T. Combs
Auditor of State
238 State House
Indianapolis 4, Indiana

Dear Mr. Combs:

I have received your two letters under the date of March 15, 1957, in which you asked the following questions concerning House Bill No. 67, which has been enacted and amends the previously existing Korean Bonus Act:

1. "Please advise the undersigned as to the proper interpretation of Section 2 of House Bill #67. It appears to be ambiguous as to whether or not the applicant must have been in, quote, 'Korean conflict or campaign,' as a condition of his eligibility."

2. "When should I begin payment? * * *"

First, in reply to your inquiry in comparing the amendatory Act to the original 1955 Act, it is to be noted that the original Act referred to "Korean Theatre," whereas, the present Act eliminates the term "Theatre" and refers only to the "Korean conflict or campaign," and in addition thereto, specifies duties outside of the continental limits of the United States which did not appear in the original Act.

Section 2 of the amended Act, as taken from House Enrolled Act No. 67, which became Chapter 291 of the Acts of 1957, reads:

"Sec. 2. (a) A bonus in the amount of two hundred dollars ($200.00) shall be paid to each member of the
armed forces of the United States, or to any member of the armed forces who has been separated or discharged from the armed forces under honorable conditions, who was on active duty with such armed forces outside the continental limits of the United States in the Korean conflict or campaign for any period between June 27, 1950, and July 27, 1953, both dates inclusive, and who has received or is entitled to receive a Korean Campaign service bar: Provided, That such member had, at the time of his or her enlistment, induction or call to active duty, been a resident of the State of Indiana for at least one year immediately prior thereto. Such bonus shall be payable out of the World War II Bonus Fund and shall be based solely on service within the above period.

By the above amendment, it would appear that the Legislature intended to adopt the geographical limits establishing the Korean War Theatre as based upon the awarding of campaign service ribbons or bars as the same may be designated by the branch of service issuing said campaign bar. Therefore, the language "Korean conflict or campaign" is an expression in the alternative to designate only a certain period of military activity in the history of the United States, distinguishing it from other declared periods of war service that were recognized by Congressional declarations of war. Thus, these terms would not form a condition of eligibility on a geographic basis. Therefore, the applicant to be eligible must, in my opinion, of necessity meet the following requirements:

1. That the applicant be either (a) a member of the Armed Forces of the United States, or (b) a member of the Armed Forces who has been separated or discharged therefrom under honorable conditions;

2. Who was on active duty with such Armed Forces outside the continental limits of the United States during any period between June 27, 1950, and July 27, 1953, both dates inclusive, and

3. Who received or is entitled to receive a Korean Campaign service bar for service during the period above specified, in paragraph (2), and
(4) That the applicant at the time of enlistment, induction or call to active duty has been a resident of the State of Indiana for at least one year immediately prior thereto.

The last sentence of the above quoted amendment limits payment of this bonus to come from World War II Bonus Funds only and again further imposes a time limitation by basing the payment solely on service within the period of June 27, 1950, to July 27, 1953, both dates inclusive, provided other conditions hereinabove set forth are met by the claimant.

In answer to your second question, it would appear to me that under the terms of Section 2 (b) of the Act that the Auditor of State is authorized to direct the payment of such claims and to fix the date upon which payment of the claims shall begin, and further directs that the payment shall be in the order enumerated in certain classes set up and defined in the amended Act itself.

It should be emphasized that the conditions of eligibility hereinabove designated, are applicable solely to Section 2 (a) concerning the eligibility of persons to receive the two hundred dollars ($200.00) payment therein stated. Reference is made to Section 2 (d) and (e) of the same Act concerning the eligibility requirements for the $600.00 bonus in case the death of a member of the Armed Service was service-connected and in the case of eligibility for the $600.00 bonus by reason of a service-connected disability of at least ten per cent (10%). Subsections (d) and (e) above referred to contain different standards of eligibility than those found in subsection (a) of Section 2, supra, and do not require that the member of the Armed Services have served outside the continental limits of the United States or that he have received or was entitled to receive a Korean Campaign service bar.

It would appear that we have answered the essential problems set out in your letters, but should your office feel the need of further clarification of certain legal points with regard to this Act, please feel free to call upon us for assistance at any time.