Mr. James M. Trimble
State Service Officer
Veterans' State Service Department
431 North Meridian Street
Indianapolis, Indiana

Dear Mr. Trimble:

Your two letters of August 5, 1957, have been received wherein you request my Official Opinion in regard to the interpretation of subsection (e) of Section 2, of House Enrolled Act No. 67 of the 1957 General Assembly, being Ch. 291, Sec. 2(e), Acts of 1957, as found in Burns' (1957 Supp.), Section 59-1421 (e), which subsection reads as follows:

"A bonus of six hundred dollars ($600.00) shall be paid from the World War II Bonus Fund to any member of the Armed Forces, 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 for any period between June 27, 1950, and January 1, 1955, and who has a service-connected disability of at least ten per cent, as determined by the United States Veterans' Administration or an Armed Forces Disability Retirement Board, or Armed Forces Physical Evaluation Board or its equivalent: 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: Provided, further, That no other bonus shall be paid to such member under the provisions of this act."

It is noted that subsection (a) of Sec. 2, supra, also contains the residence proviso reading:

"* * * 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. * * *"
Combining your questions, from the above letters, they are stated as follows:

**Question No. 1:**

"The question is must a disability have been incurred during the periods of June 27, 1950, to January 1, 1955, in order that a veteran be eligible for the $600 Korean bonus payment?"

**Question No. 2:**

"The question is—a veteran drawing a disability from the Veterans' Administration that is an aggravated condition of a pre-existing disability, is this veteran eligible to draw the $600 payment for a service-connected disability as stated in the above Act?"

**Question No. 3:**

"The question is what, by statute, constitutes legal residence within the State of Indiana? By what methods can an individual prove, by statute, his residence in the State of Indiana?"

In reply to your question number 1, it should be noted that Ch. 291, Acts of 1957, *supra*, provides for two types of bonus payments. The first is for non-disability service for which the compensable period was from June 27, 1950, to July 27, 1953. The second is for service where a service-connected disability of at least ten per cent was incurred. In this last named case the required period of service was between the dates of June 27, 1950, to January 1, 1955.

It is well established that the prime purpose of any statutory interpretation is to ascertain the intent of the Legislature and give full effect to such intention.

*State ex rel. Davenport v. International Harvester Co. (1939), 216 Ind. 463, 25 N. E. (2d) 242;*

*Zoercher v. Indianapolis Union Railway Co. (1937), 211 Ind. 703, 5 N. E. (2d) 632;*

*State ex rel. School City of South Bend v. Thompson, Auditor et al. (1937), 211 Ind. 267, 6 N. E. (2d) 710.*
In order to arrive at the intention of the Legislature, the Act as a whole and all parts thereof must be considered.

Western Machine Works v. Edwards Machine & Tool Corp. (1945), 223 Ind. 655, 63 N. E. (2d) 535;

State ex rel. Michener v. Harrison (1888), 116 Ind. 300, 19 N. E. 146.

It was stated in 1955 O. A. G., page 81, No. 23, at page 85, that:

"* * * An excellent rule of construction particularly suitable to a case such as this was laid down by the Indiana Supreme Court in 1952, when it said: 'While not controlling, the contemporaneous construction of a statute by those charged with the administration of it is entitled to great weight, and should not be interfered with unless there are very cogent and persuasive reasons for departing from it.' Gross Income Tax Division v. Colpaert Realty Corp. (1952), 231 Ind. 463, 109 N. E. (2d) 415."

It is noted that Ch. 291, Sec. 2 (e), supra, also provides that the service-connected disability is to be such "as determined by the United States Veterans' Administration or an Armed Forces Disability Retirement Board, or Armed Forces Physical Evaluation Board or its equivalent: * * *." (Our emphasis)

This not only shows a close cooperation between the state and federal governments but, in addition, makes important a knowledge of how the federal government has fixed the time eligibility for the incurring of any such disability.

I have been advised that both our state administering agency for the World War II bonus and the Korean bonus, as well as the United States Veterans' Administration in the handling of their disability benefits, have required that the cause of the disability must have occurred during the required service period, here between June 27, 1950, and January 1, 1955, the terminal date with the federal government being January 31, 1955. The interpretation being that to be "service-connected," the injury must have been incurred between the above dates. A disability which was incurred or caused sub-
sequent to January 1, 1955, would not be sufficient to merit payment of the $600 bonus. We believe this a reasonable and fair interpretation and believe that to have been the intention of our Legislature. (Our emphasis)

The reasoning and practical application shown in my answer to your question number 1 applies equally well to your question number 2.

It is readily understandable that a person entering the service may have a dormant, inactive or unnoticed physical disability at the time of such entry. It is also possible that, without aggravation, such a disability might never develop into a disability of at least ten per cent. However, if because of service, such condition developed into a disability of at least ten per cent and the aggravation was caused during the compensable period between June 27, 1950, and January 1, 1955, then such applicant should be entitled to the $600 bonus payment.

In answer to your third question first let me state that there is no statutory definition of legal residence, as the same applies specifically to the bonus laws in the State of Indiana and thus, there are no methods for an individual to prove, by statute alone, his residence in the State of Indiana.

The question of whether "residence" has been properly shown for any particular applicant, is a matter of administrative determination in the processing of the Korean bonus claims by the Auditor of State, through the Bonus Division, with final determination in all disputed claims to be by the Veterans' Affairs Commission for the State of Indiana, as shown in Burns' (1957 Supp.), Section 59-1422, which provides as follows:

"From and after the effective date of this amendatory act [March 14, 1957], any claim for the payment of a bonus, payable under the provisions of this act [§§ 59-1420 to 59-1427], to any veteran of the Korean conflict or campaign shall be filed with and processed by the auditor of state: Provided, That all disputed claims shall be submitted to and reviewed by the veterans' affairs commission, and no disputed claim shall be allowed by the auditor of state unless first approved and allowed by such commission. * * *"
An inspection of Application Form No. 1, prepared by the State of Indiana Bonus Division shows that question number 16 requires answers, under oath, to the following:

"16. Were you a resident of the State of Indiana for one [1] year IMMEDIATELY prior to your entry on active duty? Yes........ No........ Address at that time .......................................................... See instruction No. 7 before answering questions."

It is noted that instruction No. 7 gives certain explanatory information relative to the "Place of Residence." Instruction No. 7 reads as follows:

"7. 'PLACE OF RESIDENCE' is a term which cannot be defined briefly in a way that will apply to all cases which may arise. The question to be determined is whether, at the time of commencement of active duty and for at least one year immediately prior thereto, applicant was a resident of the State of Indiana. A person is a resident of the State if his home is in Indiana. Absence from the State on business or pleasure, in federal employment or service, or for reasons of education or health, is not of itself inconsistent with residence in the State if, in fact such absence is temporary and was, or is intended to be, substantially limited to the occasion therefor. Residence of a married person is generally considered to be at the place where his spouse and children reside. Residence in Indiana cannot be gained by living temporarily in the State without evidence of intention to stay in Indiana permanently. The burden of proof of residence rests upon the applicant."

The verified answers, made after reading instruction No. 7, should ordinarily suffice as a proper answer to the matter of residence. (Our emphasis)

In the administrative checking of "residence," assistance may be gained in reading our General Election Law, Burns' (1949 Repl.), Section 29-4803, where the matter of what constitutes residence for the purpose of being able to qualify as a voter is set out in a very detailed manner. It should be noted, however, that this section specifically provides that as far as
that Act is concerned, the word "residence" shall mean domicile. Nevertheless, Section 29-4803, supra, might well serve as a guide for the procurement of factual data to aid in a determination of residence for the purposes of the Korean Bonus Act.

In 1934 O. A. G., pages 346, 348, it is stated that:

"Residence has been defined by the Supreme Court of Indiana as the being in a given place with the intention of making it one's home. McCollem v. White, 23 Ind. 43, 44."

In that Opinion it is further stated that the Appellate Court of Indiana, in the case of Brittenham v. Robinson et al. (1897), 18 Ind. App. 502, 504, stated the rule as follows:

"A man may acquire a domicile if he be personally present in a place and elect that as his home, even if he never design to remain there always, but design at the end of some short time to remove and acquire another. * * * We conclude that it is not necessary that there should be an intention to remain permanently at the chosen domicile. It is enough if it is for a time the home to the exclusion of other places. It follows that the residence of a person depends upon his acts and intention. This intention may be made to appear from his acts and statements." (Our emphasis)

Other tests may be found from an examination of the administrative procedures connected with the application for a bonus under Ch. 440, Acts of 1953, of the Commonwealth of Massachusetts. Some of their administrative requirements are as follows:

When was residence first established in the State? Was the residence a rented apartment, rented home, self-owned home, government reservation or post? With whom did the applicant live at the address stated and what was the relationship to the person? Was applicant a minor at the time of entry into service? Names and addresses of parents prior to the applicant's entry into service. If applicant is married, date and place of marriage. Was he the owner of furniture? Distribu-
tion of furniture after entry into service? If applicant was a student during the year immediately prior to entry into the service, give the name of school and dates of attendance. Did applicant own any property, real or personal, in this state? If so, where and when purchased? Did the applicant own any property, real or personal, outside the state? If so, give its location, date of purchase and description. Names of cities or towns in which applicant has ever paid taxes (poll, property, income, etc.). Names of cities or towns in which applicant registered to vote, and/or voted prior to entry into service, kind of business, and dates of employment. Has the applicant ever filed for a Korean bonus in any other state? If so, when, where and with what result?

It is not intended to make this question list all-inclusive, but merely to serve as a guidepost to assist in the administration of the Act for a determination of residence.

In the procuring of residence, data supporting affidavits may be obtained, based upon information gained from records, both public and private, and from the knowledge of responsible citizens who knew the applicant prior to entry into service.

In summary, it is my opinion that:

(1) The answer to your first question is “Yes.” A disability of at least ten per cent must have been incurred during the period from June 27, 1950, to January 1, 1955, in order that a veteran may be eligible for the $600 Korean bonus payment.

(2) The answer to your second question is “Yes.” A veteran drawing a disability from the Veterans’ Administration that is initiated from an aggravated condition or from a pre-existing disability, dormant or otherwise, where the aggravation occurs and disability recurs within the time of service, to-wit: June 27, 1950, to January 1, 1955, is eligible to draw the $600 payment for service-connected disability.

(3) In answer to your third question, there is no statutory definition of “legal residence,” as the same applies specifically to the Korean bonus law. The question of whether the residence requirement has been met, by any applicant, is an
administrative matter to be determined from the verified answers of the applicant in his or her application and with additional proof being necessary only in cases of doubt or dispute. In disputed claims, additional proof may be secured from factual data, on acts and intention, with guidance from the suggestions and tests set forth in this opinion. In accordance with Section 59-1422, supra, all disputed claims shall be submitted to and be reviewed by the Veterans’ Affairs Commission, and no disputed claims shall be allowed by the Auditor of State unless first approved by the Veterans’ Affairs Commission.

OFFICIAL OPINION NO. 40
September 17, 1957

Hon. Wilbur Young
State Superintendent of Public Instruction
227 State House
Indianapolis, Indiana

Dear Mr. Young:

Your letter has been received, requesting an Official Opinion on the following question:

“Does the person in question have a vested right to receive a first grade license by virtue of the provisions inserted on the exchange license received in 1923 and 1927 even though such person would not qualify under the effective requirements of the State Board of Education of July 1, 1940, and under the present rules and regulations of the Teacher Training and Licensing Commission of the Indiana State Board of Education?”

Your question is prefaced by the following statements:

“A problem has arisen concerning the issuance of a teacher’s license based on Chapter 11 of the 1923 Acts. The person in question was issued a second grade license in 1923 in exchange for a license previously held in accordance with the said act.

“For example, on December 13, 1923, a teacher was issued an elementary second grade license on three