

## Opinion No. 57-290

November 8, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

**TO:** Mr. Manuel A. Armijo, Director, New Mexico Veterans Service Comm., Santa Fe, New Mexico

### QUESTION

#### QUESTIONS

1. What are the termination dates contemplated by the first sentence of § 72-1-11, N.M.S.A., 1953 Comp., 1957 p. s., concerning requirements to obtain veterans exemptions.
2. Is the 90-day requirement, set forth in the cited provision, a requirement of 90 days service during the time of armed conflict, or does this requirement only mean 90 days service, a part of which was served during the time of armed conflict?

#### CONCLUSIONS

1. (a) November 11, 1918  
(b) September 2, 1945  
(c) July 27, 1953
2. The former.

### OPINION

#### ANALYSIS

It is our opinion that the cited provision of law clearly contains the answer to each query propounded by you. It provides:

"Soldier' shall include every honorably discharged member, of either sex, of the armed forces, who served in the armed forces of the United States **for ninety days at any time during any period in which the military forces are engaged in armed conflict** under orders of the president of the United States, and shall include persons of either sex as such honorably discharged members of the armed forces." (Emphasis ours.)

You will observe that the phrase ". . . in armed conflict . . ." is employed as contrasted with "war" or "state of war". In accordance therewith, it was held in Opinion of the Attorney General, No. 6150, dated April 26, 1955, that prior to the 1953 amendment it was necessary that the United States be ". . . officially engaged . . ." in war before a member of the armed forces would be eligible for exemption, but that the 1953 amendment changed that. We readily agree and hold the termination dates to be as set forth in Conclusion No. 1. Furthermore, Opinion of the Attorney General No. 6150 held the Korean Conflict ended July 27, 1953. See also Opinion of the Attorney General No. 57-15, dated February 1, 1957.

In regard to your second question, we are of the opinion the quoted statutory language, particularly that emphasized by us, requires the 90-day minimum service to have been at a time when the United States was engaged in armed conflict; otherwise, one day of service during a time of armed conflict would suffice. Clearly, the Legislature did not so intend. We assume no question concerning waiver of the 90-day requirement, because of service connected disabilities, is involved.