

Opinion No. 44-4561

August 14, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. Benjamin D. Luchini, Chairman-Executive Director, Employment Security Commission, Albuquerque, New Mexico

In your letter dated August 11, 1944, you request an opinion concerning the authority of the Employment Security Commission to cooperate with the Veterans' Administrator in making allowances from the commission's funds, to be repaid by the Federal Government pursuant to the provisions of Public Law 346, passed by the Second Session of the 78th Congress.

This Federal Law, in Title 5 thereof, provides for payment of readjustment allowances for unemployment, and, in Section 1100 (a), the law provides for agreements with State agencies to facilitate the operation of the law, and for the repayment monthly to State agencies any allowances that may have been disbursed by said State agencies from State funds.

Section 57-809 of the 1941 Compilation, establishes the Unemployment Compensation Fund for New Mexico. Section 57-824 of the 1941 Compilation, 1943 Pocket Supplement, authorizes the commission to enter into reciprocal agreements with other states, or the Federal Government, and authorizes the advancement or compensation to persons entitled thereto from other states or under Federal Laws, provided that such sums advanced shall be repaid without any loss to the Unemployment Compensation Fund.

Paragraph 3 of said section authorizes payment of benefits on the basis of wages or service. Under the Federal Law services in the military forces constitute the basis for payment of benefits.

In view of the express authorization to enter into an agreement or agreements with the Federal government and pay compensation to be refunded by the Federal Government, I am of the opinion that the Commission can make such agreements and pay out such allowances authorized under the Federal Law, provided that there is no loss to the Unemployment Compensation Fund.

Trusting that the foregoing sufficiently answers your inquiry, I am