

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES—TREATMENT OF ACCRUED ANNUAL LEAVE

MARCH 2 (legislative day, FEBRUARY 15), 1960.—Ordered to be printed

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

REPORT

[To accompany H.R. 3472]

The Committee on Finance, to whom was referred the bill (H.R. 3472) to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

PURPOSE

The purpose of H.R. 3472 is to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal civilian employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws.

GENERAL STATEMENT

Title XV of the Social Security Act, which established the Federal employees' unemployment insurance program, provides for the administration of that program by the States under agreements with the Federal Government. However, under section 1505 no compensation may be paid to a Federal employee during a period subsequent to separation from Federal service when he is being paid for accrued annual leave. Your committee's bill, by repealing section 1505, would make the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave depend upon the provisions of the appropriate State unemployment compensation law.

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Unemployment compensation payments, on the one hand, and sums paid for accrued annual leave, on the other hand, are made for entirely different reasons. The unemployment compensation system, which is based upon insurance principles, is intended to maintain purchasing power during limited periods of unemployment for insured employees who have earned wage credits under the program. Its purpose is to assist in preserving the economic security of the individual and in sustaining the economic stability of the Nation. Annual leave is based on the concept that employees earn vacation rights as a result of their work. These remain vacation rights whether the employees take actual leave from their work or receive compensation in lieu of taking actual leave. The concept of insurance, unemployment, and maintenance of purchasing power are not involved with respect to the matter of annual leave. Thus, your committee is of the opinion that there is no inconsistency in the payment of both unemployment compensation and a sum for accrued annual leave to the same person for the same period of time. Your committee's bill, therefore, would repeal section 1505, thereby permitting the provisions of State law to determine the eligibility of a Federal civilian employee to unemployment compensation while he has accrued annual leave. The Federal civilian worker would then be treated in exactly the same manner as workers in private industry who receive similar annual leave payments upon separation.

COMMITTEE AMENDMENT

Section 3 of the bill, which was added by your committee, is intended to make a technical correction necessary to prevent undue hardship and injustice.

The present law provides that a quarter of coverage under OASI is based on the quarter in which wages are paid. Originally Congress provided that coverage should be based on the period when the covered work was performed, and the retirement test is still based on this concept.

An illustration of hardship that can arise can be illustrated by this hypothetical case: The claimant attained age 65 on January 31, 1955. The claimant has the following wages or self-employment income in covered employment:

Period ending—	Amount of wages	Quarters of coverage
Mar. 31, 1956.....	\$895.00	1
June 30, 1956.....	300.00	1
Dec. 31, 1956.....	750.00	1
Mar. 31, 1957.....	396.99	1
June 30, 1957.....	458.98	1

The claimant worked in covered employment in September 1956, earned \$90 in wages, and it seems only reasonable that he should be credited with one quarter of coverage for the quarter ending September 30, 1956. Both claimant and employer agreed that the claimant was paid his wages for services performed in September 1956, on October 2, 1956, so that under existing law he is not given credit for a quarter of coverage for the quarter ending September 30, 1956.

This claimant could qualify if he had six quarters of coverage in 1955, 1956, and the first 6 months of 1957. During that period of time, claimant has five quarters of coverage. Therefore, he does not meet the earnings requirements of the law. He would have had a sixth quarter of coverage except that for his employment in the third quarter of 1956 he was paid on the 2d day of October, but he would have qualified had he drawn his pay on September 30. This claimant is physically unable to perform any further work. This technicality, which deprives him of benefits, would be corrected by this amendment.

This amendment is limited in scope to individuals who did not die prior to January 1, 1955, and who attained retirement age or died before January 1, 1957, so as to give protection to the large groups of individuals who were covered by the program for the first time in 1955. It is also limited to coverage acquired in the first year that the individual was in covered employment since in such periods there is often a lag involved between when actual employment occurs and when wages are actually paid, thus possibly resulting in the loss of a needed quarter of coverage. The amendment would be effective for monthly benefits in respect to months after June 1957, if application therefor is filed within about 1 year after the month of enactment.

DEPARTMENTAL VIEWS

Favorable reports on H.R. 3472 were received from the Departments of Labor and Treasury, and the Bureau of the Budget.

The amendment adopted by your committee has been redrafted so as to be limited in application as recommended by the Secretary of Health, Education, and Welfare. The estimated cost of this amendment is negligible.

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 italic; existing law in which no change is proposed is shown in roman):

THE SOCIAL SECURITY ACT

[TREATMENT OF ACCRUED ANNUAL LEAVE

[SEC. 1505. For the purposes of this title, in the case of a Federal employee who is performing Federal service at the time of his separation from employment by the United States or any instrumentality thereof, (1) the Federal service of such employee shall be considered as continuing during the period, subsequent to such separation, with respect to which he is considered as having received payment of accumulated and current annual or vacation leave pursuant to any Federal law, and (2) subject to regulations of the Secretary concerning allocation over the period, such payment shall constitute Federal wages.]

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EX-SERVICEMEN'S UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 1511. (a) The provisions of this title, except where inconsistent with the provisions of this section, apply, with respect to weeks of unemployment ending after the sixtieth day after the date of the enactment of this section, to individuals who have had Federal service as defined in subsection (b).

(b) For the purposes of this section, the term "Federal service" means active service (including active duty for training purposes) in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States if—

(1) such service was continuous for ninety days or more, or was terminated earlier by reason of an actual service-incurred injury or disability; and

(2) with respect to such service, the individual (A) has been discharged or released under conditions other than dishonorable, and (B) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service.

No individual shall be treated as having Federal service within the meaning of the preceding sentence unless he has a period of such service which either begins after January 31, 1955, or terminates after the sixtieth day after the date of the enactment of this section.

(c) For the purposes of this section, the term "Federal wages" means remuneration for the periods of service covered by subsection (b), computed on the basis of remuneration for the individual's pay grade at the time of his discharge or release from the latest period of such service as specified in the schedule applicable at the time of filing of his first claim for compensation for the benefit year. The Secretary shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the remuneration for each pay grade of servicemen covered by this section, which shall reflect representative amounts for appropriate elements of such remuneration (whether in cash or in kind).

(d) (1) Any Federal department or agency shall, when designated by the Secretary, make available to the appropriate State agency or to the Secretary, as the case may be, such information (including findings in the form and manner prescribed by the Secretary by regulation) as the Secretary may find practicable and necessary for the determination of an individual's entitlement to compensation by reason of this section.

(2) Subject to correction of errors and omissions as prescribed by the Secretary by regulation, the following shall be final and conclusive for the purposes of sections 1502(c) and 1503(c):

(A) Any finding by a Federal department or agency, made in accordance with paragraph (1), with respect to (i) whether an individual has met any condition specified in subsection (b), (ii) the individual's periods of Federal service as defined in subsection (b), and (iii) the individual's pay grade at the time of his discharge or release from the latest period of such Federal service.

(B) The schedules of remuneration issued by the Secretary under subsection (c).

(e) Notwithstanding the provisions of section 1504, all Federal service and Federal wages covered by this section, not previously assigned, shall be assigned to the State, or Puerto Rico or the Virgin Islands, as the case may be, in which the claimant first files his claim for unemployment compensation after his most recent discharge or release from such Federal service. This assignment shall constitute an assignment under section 1504 for all purposes of this title.

(f) Payments made under section 4(c) of the Armed Forces Leave Act of 1946 (37 U.S.C. 33(c)) at the termination of Federal service covered by this section shall be treated for determining periods of Federal service as payments of annual leave to which [section 1505 applies] *section 1505 continues (without regard to its repeal)* to apply.

(g) An individual who is eligible to receive a mustering-out payment under title V of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 1011 et seq.) shall not be eligible to receive compensation under this title with respect to weeks of unemployment completed within thirty days after his discharge or release if he receives \$100 in such mustering-out payments; 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.

(h) No payment shall be made by reason of this section to an individual for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c), or (d) of section 232 of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 942), a subsistence allowance under part VII or part VIII of Veterans Regulation Numbered 1(a), as amended, or an educational assistance allowance under the War Orphans' Educational Assistance Act of 1956 (38 U.S.C. 1031 et seq.).

(i) Any individual—

(1) who meets the wage and employment requirements for compensation under the law of the State to which his Federal service and Federal wages as defined in this section have been assigned (or, in the case of Puerto Rico or the Virgin Islands, the law of the District of Columbia) but would not meet such requirements except by the use of such Federal service and Federal wages, or

(2) whose weekly benefit amount computed according to the law of such State (or the law of the District of Columbia, as the case may be) is increased by the use of such Federal service and Federal wages,

shall not thereafter be entitled to unemployment compensation under the provisions of title IV of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 991 et seq.).

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QUARTER AND QUARTER OF COVERAGE

DEFINITIONS

SEC. 213. (a) For the purpose of this title—

(1) The term “quarter”, and the term “calendar quarter”, means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2)(A) The term “quarter of coverage” means, in the case of any quarter occurring prior to 1951, a quarter in which the individual has been paid \$50 or more in wages, except that no quarter any part of which was included in a period of disability (as defined in section 216(i)), other than the initial quarter of such period, shall be a quarter of coverage. In the case of any individual who has been paid, in a calendar year prior to 1951, \$3,000 or more in wages, each quarter of such year following his first quarter of coverage shall be deemed a quarter of coverage, excepting any quarter in such year in which such individual died or became entitled to a primary insurance benefit and any quarter succeeding such quarter in which he died or became so entitled, and excepting any quarter any part of which was included in a period of disability, other than the initial quarter of such period.

(B) The term “quarter of coverage” means, in the case of a quarter occurring after 1950, a quarter in which the individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such

wages equal or exceed \$200 but are less than \$300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more; and

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained retirement age or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. *If, in the case of an individual who did not die prior to January 1, 1955, and who attained retirement age or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.*

CREDITING OF WAGES PAID IN 1937

(b) With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

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