

SVol 865-7
**INCOME LIMITATION ON PENSIONS TO
VETERANS AND SURVIVORS**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
EIGHTIETH CONGRESS
SECOND SESSION

ON
S. 2258

A BILL TO AMEND THE INCOME LIMITATION
GOVERNING THE GRANTING OF PENSION TO
VETERANS AND DEATH-PENSION BENEFITS
TO WIDOWS AND CHILDREN OF VETERANS,
AND FOR OTHER PURPOSES

MAY 26, 1948

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INCOME LIMITATION ON PENSIONS TO VETERANS AND SURVIVORS

WEDNESDAY, MAY 26, 1948

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to call, at 11:15 a. m., in room 312, Senate Office Building, Senator Eugene D. Millikin, chairman, presiding.

Present: Senators Millikin (chairman), Butler, George, and Johnson of Colorado.

The CHAIRMAN. We will next consider S. 2258.
(S. 2258 is as follows:)

[S. 2258, 80th Cong., 2d sess.]

A BILL To amend the income limitation governing the granting of pension to veterans and death-pension benefits to widows and children of veterans, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph II (a), part III, Veterans Regulation Numbered 1 (a), as amended, is hereby amended to read as follows:

"(a) Payment of pension provided by part III, except as provided in paragraph I (g), shall not be made to any unmarried person whose annual income exceeds \$1,800, or to any married person or any person with minor child or children, or dependent parent or parents, whose annual income exceeds \$3,000."

SEC. 2. Notwithstanding any other provision of law or veterans regulation, in determining annual income under the provisions of paragraph II (a), part III, Veterans Regulation Numbered 1 (a), as amended, any payments of retirement annuities based upon age or disability and of social-security benefits based upon age, shall not be considered.

SEC. 3. Section 1 (c), Public Law Numbered 484, Seventy-third Congress, as amended, is hereby amended to read as follows:

"(c) Payment of pension under the provisions of this Act shall not be made to any widow without child, or a child, whose annual income exceeds \$1,800, or to a widow with a child or children whose annual income exceeds \$3,000. In determining annual income any payments made by widow, child, or children, for expense of last sickness of the veteran and such expense of burial of the veteran as exceeds the amount of the allowance authorized by Veterans Regulation Numbered 0 (a), as amended, shall be excluded and any payments by the United States Government because of disability or death under laws administered by the Veterans' Administration shall not be considered nor shall life-insurance payments from any other source, including income therefrom in an amount less than \$3,000 received in any one year, be considered; *Provided*, That where payments to a widow are disallowed or discontinued hereunder, payment to a child or children of the deceased veteran may be made as though there is no widow."

SEC. 4. Notwithstanding any other provision of law or veterans' regulation, for the purpose of payment of compensation under laws administered by the Veterans' Administration, one parent whose annual income does not exceed \$1,800, or two parents whose annual income does not exceed \$3,000, shall be deemed to be dependent. In determining annual income any payments made by a parent for expense of last illness of the veteran or such expense of burial of the veteran as

exceeds the amount of the allowance authorized by Veterans Regulation Numbered D (a), as amended, shall be excluded and any payments by the United States Government because of disability or death under laws administered by the Veterans' Administration shall not be considered nor shall life-insurance payments from any other source, including income therefrom in an amount less than \$3,000 received in any one year, be considered.

SEC. 5. Except to the extent they may conflict with the provisions of this Act, the provisions of Public Law Numbered 2, Seventy-third Congress, the Veterans Regulations promulgated thereunder, and of Public Law Numbered 144, Seventy-eighth Congress, as now or hereafter amended, shall be applicable to this Act.

SEC. 6. This Act shall be effective from the first day of the second calendar month following the date of approval.

The CHAIRMAN. We will incorporate the report of the Veterans' Administration at this point.

(The report on S. 2258 is as follows:)

HON. EUGENE D. MILLIKIN,

Chairman, Committee on Finance,

United States Senate, Washington, D. C.

DEAR SENATOR MILLIKIN: This is in further reply to your letter of March 5, 1948, requesting a report on S. 2258, Eightieth Congress, a bill to amend the income limitation governing the granting of pension to veterans and death pension benefits to widows and children of veterans, and for other purposes.

The purpose of the bill is to liberalize existing income limitations which condition the payment of non-service-connected pensions (principally to World War I and World War II veterans) under part III, veterans regulation 1 (a), as amended, and pensions for non-service-connected death to widows and children under Public No. 484, Seventy-third Congress, June 28, 1934, as amended, and to provide a fixed annual income limitation applicable to dependent parents of deceased veterans for the payment of death compensation.

The provisions of this bill are identical with those of H. R. 4242, Eightieth Congress, which was reported favorably on July 21, 1947, by the House Committee on Veterans' Affairs (Rept. No. 1021).

Under part III of veterans regulation No. 1 (a), as amended, veterans of World War I or World War II and certain veterans of the Spanish-American War, the Boxer Rebellion and the Philippine Insurrection are entitled, subject to specified requirements, to pension for permanent-total non-service-connected disability. The pension rates are \$60 per month, or \$72 if the veteran has received the basic rate for a continuous period of 10 years or reached the age of 65. Payment cannot be made if the veteran's annual income exceeds \$1,000, if he is unmarried, or \$2,500 if married or with minor children. Section 1 of the bill would raise these income limitations from \$1,000 to \$1,800 and from \$2,500 to \$3,000, respectively. It would also introduce an entirely new factor by making the \$3,000 limitation applicable to a case where the person has a dependent parent or parents, even though unmarried and without children.

Part III likewise provides pensions, subject to the same income limitations for a very limited number of Spanish-American War (including Boxer Rebellion and Philippine Insurrection) veterans based on 50 percent disability and widows and children of deceased Spanish War (including Boxer Rebellion and Philippine Insurrection) veterans, members of which groups cannot meet the requirements for the more liberal rates generally extended in such cases by the Service Pension Acts. The bill would similarly modify the income provisions in these part III cases.

In connection with this proposal your committee will desire to consider the basic purpose of the part III pension. It was intended primarily to afford a modest allowance to seriously disabled veterans who are in limited financial circumstance but whose condition is not the outgrowth of their war service. It was not intended to provide full support. The veteran who receives \$60 monthly pension (\$720 yearly), if subject to the \$1,000 income limitation, may receive an aggregate yearly income (including the pension) of \$1,720. If he is subject to the \$2,500 limitation he could receive as much as \$3,220. If paid the higher rate of \$72 per month his potential aggregate income would be proportionately greater.

With reference to the provision for the \$3,000 income limitation where the pensioner has a dependent parent or parents, it may be noted that this would require a factual determination in each case of a living veteran with reference

to whether he has a parent or parents actually dependent, as distinguished from the present situation where a mere showing of relationship is sufficient, namely, that there is a wife or child. Whether dependent parents should be recognized as entitling the veteran to more liberal consideration in connection with the part III pension is a matter of policy concerning the extent of the Government's obligation to this class in providing non-service-connected benefits. Attention is invited to the fact that while death compensation is presently provided for dependent parents based on service-connected death of the veteran there is no comparable provision for death pension in their favor based on non-service-connected death.

Similar considerations are applicable in connection with section 2 of the bill, which would provide that payments of retirement annuities based on age or disability and of social-security benefits based on age shall not be considered in computing the amount of the annual income under part III. Under existing regulations of the Veterans' Administration (R. & P. R-1228 B) payments such as civil-service retirement annuity, social-security benefits, and railroad retirement benefits are treated generally as income. However, the cost of these benefits to the annuitant (as contributions to the fund) is not considered income and the benefits received by him are not classed as income until such cost is recovered. Since retirement annuities and social-security benefits are used for the support of the beneficiary, the bill presents the question whether it is consistent with the purpose of the income limitation to exclude the entire amount of such items as civil-service retirement pay and social-security payments, including the net amounts contributed by the employer and the Government.

Section 3 of the bill would raise the amount of the annual income limitation which qualifies eligibility of widows and children of deceased World War I or World War II veterans for death pension (nonservice connected) under Public No. 484, Seventy-third Congress, June 28, 1934, as amended, from \$1,000 to \$1,800 in the case of a widow without child, or in the case of a child, and from \$2,500 to \$3,000 in the case of a widow with a child or children. Section 3 would also provide that payments made by widow, child, or children for expenses of last sickness of the veteran and such expense of burial as exceeds the amount of the allowance authorized by Veterans Regulation No. 9 (a), as amended, would be excluded in determining annual income, as would also life insurance payments, including income therefrom in an amount "less than \$3,000" received in any one year. As drafted, the money would not cover a case where the amount is an even \$3,000, while the other monetary limitations are on the basis of exceeding the specified amount, i. e., "If the veteran's annual income exceeds \$1,000." Uniformity in such matters simplifies administration (this comment also applies to the comparable provision in section 4). Payments because of disability or death under laws administered by the Veterans' Administration would continue to be excluded.

It is noted that the provision for excluding "life insurance payments from any other source" does not specify whether it is intended to apply only to life insurance considered in the strict sense of commercial life insurance, or to include more broadly other types of benefits payable at death having life insurance aspects such as certain survivorship benefits under the Civil Service Retirement Act, as amended.

The language (in both secs. 3 and 4) "nor shall life insurance payments from any other source, including income therefrom in an amount less than \$3,000 received in any one year, be considered" is ambiguous. Is this intended to mean that life insurance payments, whether in the form of lump-sum payments or in the form of annuity or other installment payments, shall be subject to the \$3,000 ceiling? Does it mean that a lump-sum payment shall be excluded, regardless of the amount, but that payments on an installment basis shall be excluded only if they are less than \$3,000 in any one year? Finally, does the language mean that all life insurance payments shall be entirely excluded, irrespective of amount or manner of payment, and that income from the invested proceeds of life insurance shall likewise be excluded up to \$3,000?

As in the case of the part III pension, it has been the consistent policy of the Congress to restrict the benefits of Public No. 484, Seventy-third Congress, as amended, to widows and children in limited financial circumstances, the theory of the legislation being to provide some measure of support to those primary dependents who survive the veteran and who are in need. Under the present law an eligible widow with no child receives \$42 monthly pension, or \$504 annually, which when combined with the permissible \$1,000 income could aggregate \$1,504 annually. A widow with one child receives \$54 monthly pension, or \$648 annually,

which when combined with the permissible \$2,500 income would aggregate \$3,148 annually. For each additional child the pension increases \$0 per month. Pension rates for children (no widow) are less, being for one child \$21.00 monthly, two children \$32.40, three children \$43.20, and \$4.80 additional for each additional child.

With respect to the exclusion of life insurance payments in computing income under Public No. 484, as amended, it may be observed that the life insurance estate of both World War I and World War II veterans frequently is limited to Government insurance, issued by the Veterans' Administration, which is already excluded by law from the determination of annual income. The Congress has heretofore followed the policy of classifying commercial life insurance with other types of income which are not received because of disability or death under laws administered by the Veterans' Administration and are therefore included in computing income. Such commercial insurance, irrespective of amount, is only considered in relation to the year in which it is received and does not bar the recipient's eligibility for death pension in the subsequent year or years.

Section 4 of the bill would provide that for the purpose of payment of compensation under laws administered by the Veterans' Administration one parent whose annual income does not exceed \$1,800 or two parents whose annual income does not exceed \$3,000 will be deemed dependent. The same items would be excluded in determining the income of dependent parents as are prescribed by section 3 of the bill in cases of widows and children claiming death pension.

Determinations as to the dependency of parents in connection with death compensation claims (involving service-connected death of the veteran) depend upon whether there is an income sufficient to provide for their reasonable support. This is not limited to bare necessities, and administrative determinations are guided by the facts and circumstances of the individual case. Under the administrative regulations (R. & P. R. 1057) consideration is given to the obligations of the father or mother to provide maintenance for those members of their family whom they are under a moral or legal obligation to support. Various types of Government benefits are not considered, including the proceeds of United States Government life insurance, or national service life insurance, and donations or assistance from charitable sources are likewise not considered.

The absence of any fixed limitation in the present law defining dependency of surviving parents for purposes of death compensation therefore allows for considerable latitude in examining the individual case. Heretofore, in the absence of evidence indicating the contrary, the regulations have provided that dependency will be held to exist when the monthly income from sources proper to consider does not exceed \$00 for a mother or father; \$100 for a father and mother, living together; and in addition to these amounts \$25 for each additional member of the family whose support is to be considered. The regulations have provided that these amounts are not controlling in any case but have been established for use only as prima facie evidence. However, in consideration of changed conditions (R. & P. R. 1057 (E) has recently been modified to increase the amounts mentioned above to \$80, \$135, and \$35, respectively, and also to provide that these amounts shall not be applicable as a guide when the dependent is residing in a foreign country. The latter change was deemed desirable for the reason that the dollar has much greater purchasing power in some foreign countries than in this country. It is noted that section 4 of the bill would establish a fixed annual limitation in dollar amounts applicable to dependent parents, regardless of where they are situated.

In this connection attention is also invited to the provisions of the "First Supplemental Surplus Appropriation Resolution Act, 1940" (Public Law 301, 70th Cong.) to the effect that compensation for service-connected disability or death under laws administered by the Veterans' Administration paid to persons who served in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the armed forces of the United States pursuant to the military order of the President of July 20, 1941, shall be paid at the rate of one Philippine peso for each dollar authorized to be paid under such laws. The "Second Supplemental Surplus Resolution Act, 1940" (Public Law 301, 70th Cong.) contains a similar provision relative to payments of compensation by reason of service in the Philippine Scouts under the provisions of section 14 of Public Law 100, Seventy-ninth Congress.

In view of the foregoing, your committee will perhaps wish to consider whether it is desirable to specify in the law exact amounts within which dependency will be deemed to exist.

It is not clear whether the provisions of section 4 are intended to mean that one parent receiving in excess of \$1,800 annual income or two parents receiving in excess of \$3,000 shall be considered not dependent, regardless of other circumstances. Under present criteria parents with an annual income in excess of \$1,800 or \$3,000, respectively, may nevertheless be considered dependent if they have unusual expenses, such as medical or hospital expenses, which render their income inadequate for their reasonable support and maintenance. This would not be permissible if section 4 is intended to require a denial of benefits in every case where the annual income exceeds the amount specified therein.

It is not possible to furnish any reliable estimate of the cost of the proposed legislation. There are numerous unascertainable factors which would govern an estimate of the cost of the pensions, such as the numbers who have not filed claim for benefits because of their knowledge of the income limitations but who might qualify under the liberalized limitations, the income of the various groups affected, and changes in marital status.

The bill would also increase administrative costs, in an amount which cannot be estimated, due to its liberalizing provisions which would require the consideration of additional evidential factors not now material and the greatly increased number of pensioners.

It is hoped that the information contained in this report will be of assistance to your committee in its consideration of S. 2258.

Due to the urgent request of the committee for a report on this measure, there has not been sufficient time in which to ascertain from the Bureau of the Budget the relationship of the proposed legislation to the program of the President. A supplemental report will be furnished later in that connection.

Sincerely yours,

CARL R. GRAY, Jr.,
Administrator.

The CHAIRMAN. The first witness is Mr. John C. Williamson for Mr. Ketchum.

**STATEMENT OF JOHN C. WILLIAMSON, ASSISTANT DIRECTOR,
NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN
WARS OF THE UNITED STATES, WASHINGTON, D. C.**

Mr. WILLIAMSON. Mr. Ketchum had to leave for the office of the Secretary of the Navy to attend memorial services for Navy and Marine war dead, and asked me to take his place.

The bill S. 2258 is one of several bills representing the joint efforts and collective thinking of the rehabilitation and legislative spokesmen of the Veterans of Foreign Wars, American Legion, Disabled American Veterans, and AMVETS. It also represents a national resolution of the VFW which has been adopted and reaffirmed for several years past.

The bill S. 2258 corrects a grave injustice which operates to deny many widows and veterans the pensions ostensibly granted them by a grateful Congress many years ago.

Under existing law a World War I or World War II veteran otherwise eligible for the part III non-service-connected disability pension is precluded from receiving this pension if his income is in excess of \$1,000 per year, if he has no dependents; or \$2,500 if he has dependents. Also a widow of a World War I or World War II veteran is ineligible if her income is in excess of these amounts under the same conditions.

The result has been to deny many deserving widows and veterans their pensions because of their earning power notwithstanding the fact that the income limitations do not permit a decent standard of livelihood under present-day conditions. In considering the upward re-

vision of these limiting amounts, it is important to bear in mind that these income limitations for pension entitlement were placed on the statute books a considerable number of years ago—I believe in 1934 I think the citation on that is Public Law 484, Seventy-third Congress. A proviso was inserted in section 1 of that law which states as follows:

That the provisions of this Act shall not apply to any person during any year following a year for which such person was not entitled to exemption from the payment of a Federal income tax.

During the past 18 months this committee has been belabored almost constantly with testimony on taxation, inflation, purchasing price of the dollar, and so forth. No purpose would, therefore, be served by my reemphasizing the point that \$1,000 and \$2,500 in 1934 presented a far different purchasing power than today.

In arriving at the present income limitations, the Congress years ago seized upon the income-tax exemption criterion, because pension entitlement for the year 1935 was determined by whether or not during the preceding year the individual had paid income tax. If he had not paid the tax, it meant that his income was below the statutory figures of \$1,000 or \$2,500.

During the Seventy-sixth Congress, when tax exemptions were lowered, coincident with the increase in individual income tax, the Congress in Public Law 198, Seventy-sixth Congress, instead of using the previous language of the income-tax exemption, used the figures \$1,000 and \$2,500.

Surely this does not provide a sound basis for determining pension entitlement. We are asking the Congress to raise the limitation to a moderate amount; we believe the figures \$1,800 and \$3,000 to be very conservative; and certainly more in keeping with the original intent of the Congress in creating these pension rights.

With respect to the disabled veteran himself, section 2 of the bill provides that retirement annuities based upon age or disability, and of social-security benefits based upon age, shall not be considered. The reason for this is that such benefits arise out of contract in the operation of which some consideration flows from the veteran in the form of contributions to retirement or social-security funds. The part III pension has its genesis in the traditional desire of the Nation to provide a pension for all its war veterans in the declining years of their lives or when they are so disabled as to be unable to provide a decent livelihood. We believe that the Congress ought not to consider this pension in the light of any other benefits accruing to the veteran because of his civilian occupation. That is with the exception of actual earned income.

Section 3 of the bill also provides that in determining the income of the widow for pension entitlement, that insurance payments, and the expense of last illness and burial expense over the amount authorized under existing law would not be considered in computing such income for pension entitlement. Insurance payments are matters arising out of a contract between the veteran insured and the underwriter. To consider these payments, the widows would be divided into two classifications, one group whose husbands sacrificed part of their earnings in order to keep up their insurance; and the other group whose husbands carried no insurance or were ineligible for insurance. We believe that such a distinction is unfair and would be a departure

from our traditional approach to the problem of veterans' widows' pensions.

National service life insurance has always been exempt. This would consider the insurance proceeds from commercial life insurance. We believe there should be no distinction because both arise out of insurance contracts.

The exclusion of expense of long illness and burial expense in excess of the amount authorized by the VA would operate only with respect to the first calendar year following the veteran's death. Many widows during the calendar year of the veteran's death might have an income in excess of the \$1,800 statutory limit. However, it is not difficult to conceive that a good portion of this income would be spent for doctor's bills should the veteran pass away after a long illness. We believe that exempting these two factors would hardly make a noticeable effect on the cost of the bill; and that the exemptions would in fact be a more equitable approach to the problem of widow's pension settlement.

Another section of the bill which we commend to your favorable consideration, subject to an amendment which I shall discuss below, is concerned with setting up a more reasonable standard for determining the dependency of parents. The standard applied under existing law is that the income of the dependent parents be sufficient to reasonably maintain the parents, minor children, and disabled adults in the household. It is a difficult one to apply, and both the VA and our claims officers would be relieved of a great headache if the statutory standards set forth in this bill were to be adopted. The income limitations would be \$1,800 for one parent; \$3,000 for two dependents. Below these figures, there would be a presumption of dependency.

This section that I am talking about now is section 4 of the bill, and is identical to a section in S. 2651. I have discussed this with representatives of the other veterans' organizations, and we feel that the section properly belongs in this bill because it concerns income limitations and not in the S. 2651. They are identical and no purpose would be served in having identical sections in two different bills, but it is a subject that belongs properly in an income-limitation bill, although dependent parents do not receive the non-service connected pension; dependent parents only receive pension in the service-connected cases.

The Veterans of Foreign Wars, in conjunction with other veteran groups, has attempted for many years to obtain a more liberal application of the law with respect to the determination of dependency of parents. On May 5, 1948, the Veterans' Administration issued R. & P. R. 1057 which in fact does provide some degree of liberalization. In certain cases it is probable that this VA regulation would prove more advantageous to the veteran. Consequently, we offer this amendment in order to correlate this bill and the recently approved regulation. On page 4 after the last word in section 6, strike out the period and add a proviso, as follows:

Provided, That no compensation shall be reduced or discontinued by the enactment of this Act.

The insertion of such a proviso is not novel in the drafting of veterans' legislation. We believe that its acceptance in this bill would be in keeping with the practice of inserting similar provisos in other

legislation where there existed a reasonable likelihood that in certain cases, the enactment of an ostensibly beneficiary bill might prove detrimental.

We have another minor amendment which we think will correct what must be a clerical error. On page 3, line 13, of S. 2258, the word "or" should be "and." Note that a similar provision in section 3 of the bill relates to "expense of last sickness of the veteran and such expense of burial * * *." We are sure that it was the intention of the drafters of the bill to exclude both of these from the computation of income.

We believe this bill to be a very deserving one; and we strongly urge that the committee report it with a recommendation that it be approved.

The CHAIRMAN. Thank you very much.

Mr. WILLIAMSON. Thank you. I wonder if it would be appropriate at this time to insert the amount of the pension received by the veteran and the widows and children under part III Veterans' Regulation?

The CHAIRMAN. Yes.

Mr. WILLIAMSON. This pension is provided for World War I and World War II veterans who served 90 days or more or were discharged for disability incurred in line of duty.

The rates are \$60, and after the veteran has been permanently and totally disabled for 10 years, or when he reaches the age of 65, the pension is increased to \$72.

The standard used by the Veterans' Administration for eligibility for this part III pension is that the veteran must have an impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, and where it is reasonably certain that such impairment will continue throughout the life of the disabled person.

The Administrator is authorized to classify diseases and disorders as permanent and total where justified in his judgment. Willful misconduct or vicious habits would be a bar to eligibility for this pension.

Under the widows' and orphans' pension under part III, the widow receives \$42 a month, the widow and one child receives \$54, each additional child \$6. No widow and one child, \$21.60. No widow and two children, \$32.40. No widow and three children, \$43.20, with each additional child \$4.80, subject of course to the income limitations.

The pension to the widow stops upon remarriage and the payments to the widow are disallowed or discontinued; when they are, the payments may be made to child or children, as though there is no widow.

It might be in point at this time to state that prior to World War I the United States Congress enacted what we refer to as the general service pension law. I think that about 20 or 25 years after the Revolutionary War, the War of 1812, the Mexican War, the Civil War, and the Spanish-American War, and the Indian wars, Congress enacted service-pension legislation based upon age and based upon partial disability. It has now been almost 80 years since World War I and there is some question as to whether the Congress will continue the traditional service pension. This type of legislation approaches it in the sense that it limits the service pension to the veteran who is permanently and totally disabled, and there is some justification for limiting the service pension to those cases.

With respect to the widows of World War I veterans, the World War I veteran did not have to have any kind of service-connected disability, and death must be due to non-service-connected causes. Under existing law, the World War II widow is not eligible for the pension under the same circumstances. The World War II veteran must have died of nonservice-connected causes, but at the time of death he must have had some service-connected disability which if it were 10 percent or more would have been compensable. That is the difference.

In other words, this bill does not contemplate the pensioning of all World War II widows. World War II veterans must have had some service-connected disability in order for the widow to be eligible.

The CHAIRMAN. Thank you very much.

Mr. WILLIAMSON. Thank you.

The CHAIRMAN. Mr. Floyd.

STATEMENT OF WILLIAM M. FLOYD, NATIONAL COMMANDER, REGULAR VETERANS ASSOCIATION, WASHINGTON, D. C.

Mr. FLOYD. Mr. Chairman and members of the committee, I might add here that our legislative officer, along with the service officer, has met with the various organizations, American Legion, Disabled American Veterans, and AMVETS and Veterans of Foreign Wars in behalf of this bill, and we concur with the measures Mr. Williamson has mentioned.

The CHAIRMAN. Thank you very much.

Mr. FLOYD. Thank you.

The CHAIRMAN. Mr. McLaughlin, please.

STATEMENT OF ROBERT E. McLAUGHLIN, NATIONAL DIRECTOR, AMVETS, WASHINGTON, D. C.

Mr. McLAUGHLIN. Mr. Chairman and members of the committee, AMVETS expressly endorsed H. R. 4242 at its last national convention which is the companion bill in the House to S. 2258, and we wish to be recorded as supporting this bill, sir.

The CHAIRMAN. Thank you very much.

Mr. McLAUGHLIN. Thank you.

The CHAIRMAN. Mr. Camp. Mr. Camp is substituting for Mr. Tate.

STATEMENT OF QUENTIS E. CAMP, DISABLED AMERICAN VETERANS, WASHINGTON, D. C.

Mr. CAMP. As you have been told, all of the organizations are supporting these bills, and on behalf of Mr. Tate I will read a prepared statement.

I wish to concur in the statements made by previous witnesses relative to S. 2258, a bill to amend the income limitation governing the granting of pension to veterans and death-pension benefits to widows and children of veterans. At the present time many widows and children of deceased veterans are denied benefits under existing laws administered by the Veterans' Administration because of the income limitation in existing veterans' laws.

It should be remembered that the rates now prevailing under existing law were fixed in 1933 at the very bottom of the depression when a dollar was worth 100 cents. Since then the cost of living has so increased that there can be no question concerning the income limitation called for in S. 2258.

Section 8 of S. 2258 specifically exempts expenses of last illness of the veteran and expenses of burial in determining annual income of widows and children. It also excludes any payments by the United States Government because of disability or death under the laws administered by the Veterans' Administration.

Section 4 of the bill prescribes that parents shall be deemed to be dependent where the annual income of one parent does not exceed \$1,800 or that of two parents does not exceed \$2,000. Under present day conditions we feel that the income limitation should be increased to these amounts. Under section 4 the parents are authorized the same deductions for expenses of last illness burial of the veteran in determining annual income.

I wish to express my appreciation to the committee for the opportunity of appearing in support of S. 2258.

The CHAIRMAN. Thank you very much.

Mr. CAMP. Thank you.

The CHAIRMAN. Mr. Kraabel.

STATEMENT OF T. O. KRAABEL, THE AMERICAN LEGION, WASHINGTON, D. C.

Mr. KRAABEL. The American Legion has its statement prepared, setting forth its reasons for its support of S. 2258.

The American Legion advocates enactment of S. 2258 because of the knowledge that needed benefits are presently denied many veterans, widows, children, and parents because of existing statutory and regulatory limitations. This also is a measure to which all major veterans' organizations are agreed. This bill proposes a modification of existing income limitations which condition the payment of non-service-connected disability pensions to war veterans and of non-service-connected death pensions to the widows and children of war veterans. It fixes annual income limitations applicable to dependent parents of deceased veterans for the payment of compensation in service-connected death cases. It also provides for exclusion of certain specified income and expenses in determining the amount of annual income.

Section 1 applies to war veterans. It will elevate the annual income limitation conditioning pension award for permanent and total non-service-connected disability from \$1,000 to \$1,800 in the case of a veteran without dependents and from \$2,500 to \$3,000 for a veteran with dependents. It requires consideration of parents, when dependent, in determining the applicable annual income limitation in these cases.

Section 2 also applies to pension awards to war veterans for permanent and total non-service-connected disability. In addition to income excluded by the present law, there will be excluded any payments of retirement annuities, from whatever source, based upon age or disability and of social-security benefits based upon age. In determining the annual income limitation in these cases presently certain income is excluded from computation by section 403, Public Law 844,

Seventy-fourth Congress, by section 12, Public Law 49, Seventy-eighth Congress, and by section 608, Public Law 106, Seventy-ninth Congress.

Section 3 applies to pension payments to widows and children of war veterans whose deaths are held not service-connected. It will elevate the annual income limitations conditioning these pension awards from \$1,000 to \$1,800 as to a widow without child, or a child, and from \$2,500 to \$3,000 as to a widow with child or children. In addition to income excluded by present law, this section contemplates exclusion also, in determining the annual income limitation, of any payments made by widow, child, or children for expense of the veteran's last illness and also such burial expense as exceeds the amount allowed by Veterans' Regulation 9 (a), as amended. Commercial life insurance payments, including income therefrom in an amount of less than \$3,000 received in any one year, are also excluded in computing annual income.

Section 4 applies to parents. The purpose of this section is to provide a statutory basis for determining dependency of parents for the payment of compensation under laws administered by the Veterans' Administration. The American Legion believes that the Veterans' Administration regulation, R. and P. R. 1057, which governs determination of dependency of parents, has deprived many parents of death compensation even though they were in fact dependent. It is true that the regulation was modified May 5, 1948, while this bill, S. 2258, and the House bill, H. R. 4242, are being considered by the Congress. Section 4, S. 2258, is identical with section 3, S. 2651, which is also before this committee. As proposed in this section the same statutory income limitations, and exclusion of certain income and expenses would apply in determining entitlement of parents to awards of compensation in service-connected deaths as section 3 above provides in determining entitlement of widows and children to pension in nonservice-connected deaths.

It is necessary that the American Legion recommend these amendments to this bill:

Section 4, line 13, page 3, substitute "and" for "or." The intent is to exclude both expense of last illness and of burial, as is done in section 3, line 19, page 2, where the word used is "and."

Section 6, line 4, page 4, change the period to a colon and add:

Provided, That no compensation or pension shall be reduced or discontinued by the enactment of this Act.

Conceivably the compensation awarded some parents might be discontinued now that the above-mentioned Veterans' Administration regulation has been modified, so this savings clause is required.

And may I suggest, Mr. Chairman, that probably you would like to have for the record the R. and P. R. 1057, VA regulations promulgated on May 5, 1948, to which reference has been made in the matter of the dependency of parents and what is considered as income beyond which dependency would not be admitted.

The CHAIRMAN. That will be put in the record at this point.

(R. and P. R. 1057 is as follows:)

1057. CONDITIONS WHICH DETERMINE DEPENDENCY

(A) Dependency will be held to exist if the father or mother of the veteran does not have an income sufficient to provide reasonable maintenance for such father or mother and members of his or her family under legal age and for dependent adult members of the family if the dependency of such adult member

results from mental or physical incapacity. "Reasonable maintenance" includes not only housing, food, clothing, and medical care sufficient to sustain life, but such items beyond the bare necessities, and as well as other requirements reasonably necessary to provide those conveniences and comforts of living suitable to and consistent with the parents' reasonable mode of life. "Members of the family" will be considered to mean those persons whom the father or mother is under moral or legal obligation to support.

(B) (1) In determining the amount of income, consideration will be given to (a) net income from property owned, or business operated, by the mother or father; (b) earnings of the mother or father and other members of their family under legal age; (c) actual contributions of any character to the family expenses by the adult members; (d) so-called social-security benefits, i. e., old-age assistance and old-age and survivors' insurance; (e) family allowances received pursuant to Public Law 925, Seventy-seventh Congress (June 23, 1942), as amended by Public Law 174, Seventy-eighth Congress (October 26, 1943).

(2) In determining whether other members of the family under legal age are factors in necessary expenses of the mother or father, consideration will be given to any income from business or property (including trusts) actually available directly or indirectly, to the mother or father for the support of the minor but not to the corpus of the estate or the income of the minor which is not so available.

(3) In determining dependency, amounts received from the following-named sources, by the father or mother or other member of the family, will be disregarded, viz. (a) as designated beneficiary or otherwise of any insurance under the War Risk Insurance Act, the World War Veterans' Act, 1924, as amended, or the National Service Life Insurance Act or any amendments to either; (b) any pension or compensation under laws administered by the Veterans' Administration; (c) benefits under the World War Adjusted Compensation Act or the Adjusted Compensation Payment Act, or any amendments to either; (d) the 6 months' pay made to the designated beneficiary thereof pursuant to 10 U. S. C. 903, 903 (a) and 456; 34 U. S. C. 943, 944, and 855c-2; (e) payments pursuant to Mustering-Out Payment Act, 1944, Public Law 225, Seventy-eighth Congress; (f) donations or assistance from charitable sources.

(4) In addition to considering income of a father or mother, consideration will be given to the corpus of such claimant's estate if under all the circumstances it is reasonable that the same or some part thereof be sold and the proceeds consumed for the claimant's maintenance.

(C) The fact that the veteran has made habitual contributions to his father or mother, or both, is not conclusive evidence that dependency existed but shall be considered in connection with all other evidence.

(D) The remarriage of a mother or father does not, per se, bar entitlement but is prima facie evidence that dependency has ceased (August 1, 1944).

(E) (1) In the absence of evidence indicating the contrary, dependency will be held to exist when the monthly income from sources proper to consider does not exceed:

(a) \$80 for a mother or father (not living together).

(b) \$195 for a mother and father (living together).

(c) The amounts stated in (a) or (b) plus \$35 for each additional member of the family whose support is to be considered under the criteria indicated in subparagraphs (A) and (B).

It must be definitely understood that the amounts stated are not controlling in any case but are to be used only as prima facie evidence. Each claim is subject to adjudication upon the facts thereof in the light of the governing legal principles summarized in this paragraph. The above monetary guides are not for application in a foreign country (May 5, 1948).

The CHAIRMAN. Do you wish to say anything further?

Mr. KRAABEL. That completes my statement.

The CHAIRMAN. Mr. Birdsall.

STATEMENT OF GUY H. BIRDSALL, VETERANS' ADMINISTRATION, WASHINGTON, D. C.

Mr. BIRDSALL. A detailed report has been made by the VA under date of May 19, 1948, and if not already incorporated in the record, I will suggest that it be inserted at this point.

The CHAIRMAN. I have given it to the reporter for insertion.

(The report will be found on p. 2.)

Mr. BIRDSALL. In connection with the income limitations on the non-service-connected benefits, we have Mr. Boliek, representing the Assistant Administrator for Claims, who has a statement prepared which briefly covers the gist of our report; if there is no objection we would like to have him present it.

The CHAIRMAN. We will be glad to hear him.

Mr. BIRDSALL. I have a report on the stenographic assistance which is ready for your committee. That was discussed yesterday.

STATEMENT OF L. E. BOLIEK, SPECIAL ASSISTANT TO THE DIRECTOR, DEPENDENTS AND BENEFICIARIES CLAIMS SERVICE, VETERANS' ADMINISTRATION, WASHINGTON, D. C.

Mr. BOLIEK. Mr. Chairman and members, respecting S. 2258, section 1 of this bill affects pensions payable to World War I and World War II veterans who are permanently and totally disabled as the result of non-service-connected disability. The basic law, Veterans Regulation No. 1 (a), part III, also applies to a very limited number of widows and children of deceased veterans who served in the Spanish-American War.

Under the present law pensions may be paid to a disabled veteran at the rate of \$60 monthly, or if the veteran has received that rate for a continuous period of 10 or more years, or reached the age of 65 years the rate is \$72 a month. The payment of pensions is also contingent, however, upon the veteran's financial status. Pension may not be paid to a single veteran if his annual income exceeds \$1,000 or to a veteran with a wife or minor children if his annual income exceeds \$2,500.

This bill proposes to broaden the class of eligible veterans by substituting annual income limitations of \$1,800 and \$3,000 for the present \$1,000 and \$2,500. In addition, it would permit the inclusion of a dependent parent in determining whether the higher income limitation is applicable.

Under the present law a single veteran who is eligible to receive pension may have a total income of \$1,720, which under the proposed legislation may be increased to \$2,520. The potential combined income of a veteran with a wife or minor child would be raised from \$3,220 to \$3,720. Taking into consideration the proposed section 4 of the bill, which refers to income limitations for parents, there might be a total combined income for a family unit consisting of a veteran with two dependent parents of \$6,720.

The inclusion of dependent parents in non-service-connected legislation would confer a recognition upon them during the veteran's lifetime which could not be under present legislation continued after death. Under existing laws a dependent parent is entitled to compensation only where the veteran's death is service-connected.

Section 2 of the bill proposes to exclude from determinations of annual income in the restricted class of cases covered by section 1 any payments of retirement annuities based upon age or disability and social-security benefits based upon age. This would increase the number of potential eligibles. Before discussing this further, I should like to invite attention to the fact that under present laws determina-

tions of annual income are made under the same criteria for Regulation 1 (a), part III, as are currently made under Public, No. 484, Seventy-third Congress, as amended. That is the widows law, you know, for non-service-connected cases.

The committee may wish to consider the advisability of maintaining this uniformity by making this section or any other legislation relating to the computation of annual income equally applicable to both types of cases.

The effect of the proposed exclusion of retirement annuities and social-security benefits based on age would, of course, benefit those persons who have invested in a commercial or employment retirement benefit, but apparently would not exclude the payment of old-age and survivors insurance to a survivor.

Retirement annuities as well as old-age and survivors insurance paid under the Social Security Act, as amended, which is being paid to a former worker, are at present excluded from consideration as income until the worker has received the full amount of his personal contribution. The effect of this section would therefore be to exclude such payments after the former worker had received an amount equaling his contribution.

As to section 3 of S. 2258, Public, No. 484, of the Seventy-third Congress, as amended, provides for the payment of death pension (non-service connected) under certain conditions to the widows and children of deceased veterans of World Wars I and II; one of the conditions is that the annual income of the claimant must not exceed a specified amount.

Three changes respecting the amount of the income limitation would be brought about by section 3 of the bill. First, it would increase the income limitations from \$1,000 to \$1,800 in the case of a widow without a child, or in the case of a child, and an increase from \$2,500 to \$3,000 in the case of a widow with a child or children.

Second, it would provide that payments made by the widow, child or children for expenses of last sickness of the veteran and such expenses of burial as exceed the amount of the allowance authorized by the Veterans Regulation 9 (a), as amended, be excluded in determining annual income. That, of course, has reference to the ordinary \$150 statutory burial allowance which is made in the case of veterans of wars.

Third, it would in determining annual income in addition to life-insurance payments made by the Veterans' Administration, which are currently excluded, also exclude life insurance from any other source in an amount less than \$3,000 received in any one year.

As drafted, the bill would not cover a case where the amount, even \$3,000, while the other monetary limitations are on the basis of exceeding the specified amount, that is, "if a veteran's annual income exceeds \$1,000." Uniformity in such matters simplifies administration. This statement also applies to the comparable provision in section 4.

Concerning the exclusion of life insurance in computing income, under Public, 484, as amended, the life insurance of World War I and World War II veterans is frequently limited to Government insurance issued by the Veterans' Administration which is already excluded by law from the determination of annual income. The Con-

gress has heretofore followed the policy of classifying commercial life insurance with other types of income which are not received because of disability or death under laws administered by the VA, and are therefore included in computing income. Such commercial insurance, irrespective of amount, is only considered in relation to the year in which it is received and does not bar the recipient's eligibility for death pension in the subsequent year or years.

Respecting section 4, which is identical with section 4 of H. R. 4242 and section 3 of S. 2651 this would provide for the purpose of payment of compensation under laws administered by the VA, one parent whose annual income does not exceed \$1,800 or two parents whose annual income does not exceed \$3,000, will be deemed dependent. The same items would be excluded in determining the income of dependent parents as are prescribed in section 3 of the bill in cases of widows and children claiming death pensions.

Determinations as to the dependency of parents in connection with death compensation claims, involving service-connected death of a veteran, depend upon whether there is an income sufficient to provide for their reasonable support. This is not limited to bare necessities and administrative determinations are guided by the facts and circumstances of the individual case. Since there is no fixed limitation in the present law defining dependency of surviving parent for the purposes of the death compensation considerable latitude is allowed in examining the individual case.

While the apparent purpose of this section is to liberalize the conditions under which compensation may be paid to parents it does not have the same flexibility provided under existing regulations. Since June 29, 1936, when compensation has been allowed to a claimant as a dependent parent, the Veterans' Administration does not ask for further evidence of their financial status; unless information is received indicating that the parents' income may have increased, the monthly checks go forward from year to year without interruption. This policy is considered reasonable considering that with the advancing years the income of the average parent is more likely to decrease than to increase.

Under the proposed substitution of an annual income limitation for a monthly standard, which is currently in use, it is probable that the Veterans' Administration would be required to send questionnaires to each parent who is receiving compensation at the beginning of each year in order to determine whether the parent expects to have an income of \$1,800 or \$2,000, whichever is applicable. This would not be necessary if dependency can be determined on the basis of a monthly income.

If dependency determinations are converted from monthly to an inflexible, annual income basis, it would apparently be necessary to include as income occasional gifts of money, as well as lump sums which are not of themselves sufficient to change the parents' mode of living. At present a gift of money or the receipt of a lump-sum payment of insurance does not necessarily preclude a finding that dependency exists. If the facts show that a parent does not have an income sufficient for his maintenance in a reasonable mode of living, it is considered that the claimant is dependent. The use of a fixed annual income standard without regard to the facts in the individual

case would also operate to confer entitlement in cases which it is probable should be excluded. It is recognized that in certain foreign countries (and this section would be applicable to foreign as well as domestic claimants) the standards of living are appreciably lower than in the United States. The fixed-annual income standard for determining dependency would be placing some foreign claimants in a highly advantageous position.

Mr. Chairman, it is not possible to furnish any reliable estimate of the cost of the proposed legislation. There are numerous unascertainable factors which would govern an estimate of the cost of the pension, such as the numbers who have not filed claims for benefits because of their knowledge of the income limitation, but who might qualify under the liberalized limitations, the income of the various groups affected, and change in marital status.

The bill would increase administrative cost in an amount which cannot be estimated due to its liberalizing provisions which would require the consideration of additional evidential factors not now material, and the greatly increased number of pensioners.

The CHAIRMAN. Thank you very much.

(Thereupon at 11:45 a. m., the committee proceeded to consideration of other business.)

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