

# Initiative Measure No. 158

## BALLOT TITLE

**AN** ACT relating to revenue and taxation; providing for the levy and collection of a three per cent tax on gross income; providing for certain exemptions and deductions; providing for the disposition of revenue derived hereunder; prescribing monthly payments of not less than sixty dollars to certain aged, blind, disabled or widowed persons from an Employment and Retirement Mutual Insurance Fund, herein created; prescribing duties of officers and procedure in relation hereto; regulating disposition of payments by beneficiaries; defining terms and prescribing penalties.

**AN** ACT providing annuities of Sixty Dollars or more per month payable by the State of Washington to certain citizens over sixty years of age or blind or physically disabled; levying and apportioning therefor a tax of three per centum on gross incomes derived from transactions in this state, with certain exceptions and certain exemptions therefrom and from retail sales and occupation taxes; requiring annuitants to spend their annuities and not engage in gainful occupation; prohibiting assignment or legal process respecting annuities; prescribing duties of officers and procedure; and prescribing penalties for violations of this Act.

*Be it enacted by the People of the State of Washington:*

**SECTION 1.** This Act shall be known and may be cited as the Employment and Retirement Mutual Insurance Act.

**SEC. 2.** Annuities are provided by this Act for aged, blind or disabled citizens in order that they may be assured a living income without being paupers and may be induced thereby, to retire from gainful occupations, to spend their annuities, and thus to provide occupations and employment for others; and in order that other citizens may have the security of like insurance for their future; all of which is declared to

be a public purpose and function of this state.

**SEC. 3.** Every person having the qualifications prescribed by this Act and complying therewith, shall receive from the State of Washington an annuity, payable in monthly installments of Sixty Dollars (\$60.00) per month, while such qualifications and compliance continue.

**SEC. 4.** In order to qualify for and be entitled to the annuity provided by this Act, the person must be:

- (1) A citizen of the United States of America.
- (2) Over sixty years of age; or totally and permanently disabled physically; or blind to the extent of having no useful vision for occupational purposes; or a widow supporting her child under eighteen years of age.
- (3) A legal resident of the State of Washington who has been such a resident for at least five years out of the preceding nine years with one continuous year of such residence immediately preceding his application or certificate for such annuity.
- (4) Not an inmate of any public institution.

**SEC. 5.** In order that an annuity shall continue after it is commenced, the annuitant must have expended all installments of such annuity pre-

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viously received in excess of Sixty Dollars and the annuitant must not support therefrom an able bodied person over 18 years of age, except his wife, and must not engage in gainful occupation, nor be an inmate of a public institution.

Gainful occupation, as used in this section, means any business or activity from which a wage, salary, profit or other compensation is derived, directly or indirectly, but does not include the collection of interest, dividends, rents or other revenue from the annuitant's investments or property.

Upon or attached to each warrant for the payment of an annuity, except the first warrant, shall be a statement of compliance with this section to be signed by the annuitant as a representation and condition for payment of the warrant.

SEC. 6. A person who accepts an annuity under this Act shall not be entitled, for any period for which such annuity is received, to receive any other payment from the State of Washington as a Senior Citizens Grant or other old age assistance or as assistance to the blind. Nothing in this Act shall prevent an annuitant from receiving a pension or retirement benefits for services rendered, or workman's compensation, unemployment insurance, war veteran's benefits, or other benefits, earned prior to acceptance of the annuity under this Act.

SEC. 7. An annuity under this Act shall be a Class A Annuity when the annuitant receiving it would be otherwise qualified for a grant under the Senior Citizens Grant Act (Chap. 1, Laws of 1941, and Acts amendatory thereof) upon which the state would be entitled to receive Federal-Aid, and shall be regarded as an increase of old-age assistance and administered by the Director of Social Security through the division of old-age assistance.

An annuity under this Act shall be a Class B Annuity when the annuitant receiving it would be otherwise qualified for state assistance for the blind under Chapter 132, Laws of

1937 and acts amendatory thereof, upon which the state would be entitled to receive Federal-Aid, and shall be regarded as an increase of such assistance to the blind and administered by the Director of Social Security through the division for the blind.

Every other annuity shall be a Class C Annuity and shall be administered by the Director of Social Security through the Department of Social Security.

SEC. 8. The Director of Social Security shall classify every annuity granted under this Act and change the classification thereof as necessary to conform thereto, shall keep all necessary records and make all necessary reports to conform to the Acts of Congress and rules and regulations thereunder relating to Federal-Aid to the state on account of such Class A and Class B Annuities, shall administer all provisions of this Act except revenue and taxation provisions, through the Department of Social Security, and shall make rules and regulations for the proper administration of the Act in accordance with its terms and purpose.

SEC. 9. The Director of Social Security shall promptly examine the records of his Department of each Grant Act and of each case of aid for the blind, and if such records show the recipient would be entitled to an annuity under the provisions of this Act, the Director shall make and file in his Department a certificate to that effect and mail a duplicate thereof to such recipient, without application being made therefor. The Director may cause such records to be amplified for the purpose of such showing, before making any certificate. If the Director determines that such records do not show the recipient of a grant, or recipient of aid for the blind entitled to an annuity under this Act, he shall notify such recipient of such finding and that a formal application will be necessary to secure such annuity.

SEC. 10. Every person desiring to receive the annuity provided by this Act and not certified therefor by the

Director of Social Security, shall file with the Department of Social Security his verified application therefor upon the forms prescribed by the Director, stating the facts and information therein required.

Sec. 11. The Director of Social Security shall prescribe the forms of application for annuity under this Act, shall cause the same to be printed in sufficient quantities, furnish such forms to intending applicants upon request, and furnish each County Auditor a sufficient supply of such forms for use of applicants in such county. Such forms of application shall require and provide for the statement of facts showing the qualifications of the applicant and such other facts as the Director deems necessary to establish the State's right or lack of right to Federal Aid on account of payments to the annuitant, together with such related references and information as the Director finds reasonably necessary for proper investigation of rights.

Sec. 12. Every application for such annuity shall be verified by the affidavit of the applicant that he has read or heard read the application signed by him and that the same is true of his own knowledge, and shall be subscribed and sworn to, or affirmed, before an officer authorized by law to administer an oath, but no fee shall be charged by any public official for such oath or affirmation. After one month from the filing of a completed and verified application for such annuity, it shall be prima facie evidence in all subsequent proceedings thereon, of the facts therein stated relative to the qualifications of the applicant for such annuity.

Sec. 13. Each annuity shall begin and be payable on the first day of the next month after the month in which proper application therefor is filed in accordance with this Act; *Provided*, That no annuity under this Act shall begin before the 1st day of June, 1945, at which time all annuities under certificate of the Director of Social Security shall begin.

Sec. 14. The Department of Social Security shall refuse to file any

application which does not show the applicant qualified for an annuity or is not completed in accordance with the prescribed forms, and shall return the same to the applicant with notice of the particulars in which his application is insufficient for filing. The Director shall cause prompt investigation and reports thereof to be made by the department on every application for an annuity filed, and such investigations and reports as he deems necessary to determine whether or not an annuitant has complied with the provisions of section 5 of this Act and to determine the proper classification of an annuity from time to time.

Sec. 15. If it appears upon such investigation and reports that an applicant or annuitant is not qualified for an annuity, or that an annuitant has failed to comply with any provision of section 5 of this Act, the Director shall order a hearing to determine the right to such annuity, which hearing shall be conducted by the Director or by a supervisor of his Department or by an examiner especially appointed by the Director for such purpose. If he finds it necessary for the protection of the state, the Director shall, in the order for hearing, suspend payment of the annuity until the final determination. The hearing shall be fair and conducted in the county in which the applicant or annuitant resides, and a transcript of the testimony shall be made and included in the record, the costs of which shall be borne by the Department. A copy of the transcript shall be given the applicant or annuitant. Notice of such hearing shall be given the applicant or annuitant at least ten days prior to the date thereof, either by registered mail or by personal service and after such notice is given, the applicant or annuitant or his attorney or authorized agent may examine any records of the Department pertaining to such application or annuity.

Sec. 16. Within one month after such hearing, the Director shall make findings of fact and an order in ac-

cordance therewith granting or denying or continuing or cancelling the annuity involved, and serve a copy thereof upon the applicant or annuitant personally or by registered mail. If such findings of fact show that an annuitant has unlawfully received money as such annuity, the Director shall find the amount so unlawfully received. Such order shall be a final determination of all matters involved unless appealed from.

SEC. 17. The applicant or annuitant affected by such order may appeal to the Superior Court of the county of his residence by filing a notice of appeal with the Clerk of such court and serving a copy thereof upon the Director, personally, or by registered mail, within two months from the date of such order. Upon receipt of the notice of appeal, the Clerk of the Superior Court shall immediately docket the cause for trial and no filing fee shall be collected of the appellant.

Within ten days after being served with such notice of appeal, the Director shall file with the Clerk of such court the record of the case appealed and no further pleadings shall be required to bring the appeal to issue.

The appellant and the Director shall have the right to present any additional evidence deemed by the court to be competent, relevant and material. The Superior Court shall decide the case on the record and such additional evidence, if any, and may affirm, modify or reverse the decision and order of the Director and fix the amount, if any, to which the appellant is entitled under the provisions of this Act. Either party may appeal to the Supreme Court from the decision of the Superior Court in the manner provided for civil appeals, but no bond shall be required on such appeal. The applicant or annuitant, if successful on appeal, shall be entitled to recover a reasonable attorney's fee and costs.

SEC. 18. The right to receive any annuity payment under this Act shall not be assignable or transferable, at law or in equity, and such right and moneys paid thereunder shall be ex-

empt from execution, levy, attachment, garnishment or other legal process.

SEC. 19. A tax of three per centum thereof is hereby levied upon the gross income of every person or company derived on or after March 1, 1945, from transactions, business or employment in this state, except that the following shall be exempt from such tax:

- (1) Fraternal benefit societies, orders or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for payment of death, sick, accident or other benefits to the members of such societies, orders or associations, and to their dependents or beneficiaries;
- (2) Corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes;
- (3) Business leagues, chambers of commerce, labor and fraternal organizations, boards of trade, civic leagues, and other similar organizations operated exclusively for the benefit of the community or for the promotion of social welfare, and not for commercial trading in any form, and from which no profit inures to the benefit of any private stockholder or individual;
- (4) Hospitals, infirmaries and sanatoria, from which no profit inures to the benefit of any private stockholder or individual.

SEC. 20. The term "Gross Income" in the preceding section and elsewhere in this Act means the gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce, or the sale of tangible or intangible property, and including interest, dividends, discounts, rentals, royalties, fees, commissions, bonuses,

or prizes or any other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest or discount paid, or any other expenses whatsoever, but does not include any of the following:

- (1) Income derived from transactions in interstate or foreign commerce that this state is prohibited from taxing by the Constitution or laws of the United States.
- (2) Money or property received as a loan or deposit or as the return or repayment thereof, but includes all interest, discount, storage or other charges on every such transaction.
- (3) Rent of property upon which a property tax is levied ad valorem, but includes that part of denominated rent of such property equal to the value of heat, light, water, janitor service and other things or services furnished in addition to the use of such property.
- (4) Profits withdrawn by a partner derived from transactions upon which the partnership pays gross income tax.

The term "Company" in the preceding section and elsewhere in this Act means every partnership, society, unincorporated association, joint adventure group, joint-stock company, corporation, trustee, executor, administrator, trust estate, decedent's estate, trust, or other entity, whether doing business for themselves or in a fiduciary capacity, and whether the individuals are residents or nonresidents of this state and whether the corporation or other association is created or organized under the laws of this state or of another jurisdiction.

Sec. 21. There shall be exempt from the tax levied by section 19, \$100.00 per month of the gross income of each person or company taxed thereunder, *Provided*, that if the tax so levied would be held invalid by reason of this exemption, then, this Act shall be construed as though the exemption provided in

this section were omitted and the tax levied upon the gross-income of every person or company subject thereto without such exemption.

SEC. 22. When the receipts from a sale or transaction in this state are gross income for taxation purposes under the provisions of this Act, such sale or transaction shall be exempt from sales tax under the provisions of Title III of Chapter 180 of the Laws of 1935 as amended, and shall be exempt from occupation tax or serving as a measure thereof under Title II of said Chapter 180 as amended.

SEC. 23. The taxes imposed by this Act shall be collected and administered by the Tax Commission of the State of Washington, which is hereby empowered to make all needful rules and regulations for the administration and collections of such taxes and registration of taxpayers, and prescribe all forms to be used therefor and provide such forms to all taxpayers on request.

SEC. 24. It shall be the duty of every person or company subject to tax under this Act or required to withhold taxes imposed hereunder, to register with the Tax Commission, when required, and to make to the Tax Commission a return of gross income and pay the taxes thereon monthly during the next month after such gross income is received, and at the same time to make return of each tax withheld as employer during the same period and make payment thereof, but the Tax Commission may extend the period and time for such returns and payments to cover quarterly, semi-annual or yearly periods and payments, with the general purpose that such returns shall include periods for which at least \$20.00 of taxes would normally be payable, but at least one return and payment for each calendar year shall be required with the time for making the same not later than March 15th of the succeeding year.

SEC. 25. Every employer shall withhold the gross income tax levied

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by this Act from the salary, wages, commission or other compensation for services of his employees or officers, and pay the same over to the Tax Commission, but no person or company shall be deemed an employer under this Section in relation to casual labor or services not in the course of the employer's trade or business.

SEC. 26. Wilful failure to make a tax return or to register with the Tax Commission as required by this Act or wilful failure by an employer to withhold taxes or to make a return thereof or to make payment thereof, as required by this Act or wilful making or filing of a false return by a taxpayer, shall be a misdemeanor punishable by a fine not exceeding \$500.00 or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment.

SEC. 27. No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against the Tax Commission, or any member or officer thereof, to prevent or enjoin the collection of any tax levied under the provisions of this Act, but after payment thereof action may be maintained to recover any tax illegally collected and paid under protest.

SEC. 28. All taxes collected under this Act shall be immediately deposited with the State Treasurer who shall place the same in a special fund to be known as the Employment and Retirement Mutual Insurance Fund to be expended solely in payment of the annuities provided by this Act and the expenses of ad-

ministration thereof, except that the Legislature may appropriate therefrom for other purposes not exceeding *twenty-five* per centum of the amount received into said capital fund each month and not exceeding \$20,000,000.00 in any one fiscal year.

SEC. 29. On December 5, 1945, and every three months thereafter the State Auditor shall furnish the Director of Social Security a certified statement for the purposes of this section showing the condition of said Employment and Retirement Mutual Insurance Fund at the close of the preceding month. If the balance in said fund at any such time, exclusive of the amounts permitted to be appropriated for other purposes under section 28, shall exceed a reserve of the amount estimated by the Director to be necessary for payment of \$60.00 per month to each annuitant for the ensuing two months, such excess shall be prorated among all annuitants and added to each regular annuity payment in three monthly payments commencing with January 1946, and quarterly thereafter, provided that no such excess payments need be made unless amounting to one dollar per month per annuitant and such excess payments shall be made in even dollars per annuitant within the amount of such excess.

SEC. 30. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the provision or application so held invalid, and for such purposes the provisions of this Act are declared to be severable.

STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State March 28, 1944.

BELLE REEVES,  
Secretary of State.

**ARGUMENT FOR  
INITIATIVE MEASURE NO. 158**

1. The Act provides a **Monthly Annuity Insurance of Sixty Dollars** or more, as a right of **American Citizenship**, to any resident of the State of Washington who is:

- a. A citizen of the United States of America.
- b. A resident of the State of Washington for 5 years out of the past 9 years, with one year's continuous residence immediately preceding the date of application for the annuity.
- c. Sixty years of age or over.
- d. Totally or permanently disabled. (Includes veterans of the United States Military Service.)
- e. Blind.
- f. Widow with her child under 18 years of age.

The foregoing provisions of the Act are clear, when it is understood that the proposed law does not repeal any part of the present pension laws of Washington. The requirement of citizenship does not deprive a person who is not a citizen from benefits under present pension laws. The resident qualification conforms with Social Security provisions. Lowering the age from 65 years to 60 years is a realistic attempt to meet a very urgent post-war problem of unemployment. Coupled with the further provision that the annuitant must retire from gainful employment and spend the annuity within thirty days, the lowering of the age guarantees a high degree of security for all age groups, because it insures a steady flow of purchasing power for all kinds of goods and services and provides jobs for younger workers. The coverage for the disabled, including veterans of the United States Military Service, offers a solution of what all students of the subject agree will be one of the pressing problems of the post-war period. The provisions for care of the blind and widow with dependent child under 18 years need no further explanation or defense.

2. Initiative No. 158 does not repeal or change the present Washing-

ton law which provides medical aid or additional care. The same protection and guarantee will remain in effect, if 158 is adopted.

3. The Act retains Federal Social Security Aid to the maximum permitted by the Federal Government. This provision insures that additional money will be expended within the state to swell the total volume of business and add to the general prosperity of its citizens. The Federal Social Security Aid to the State of Washington will, however, be granted only for those 65 years of age or over.

4. The Act substitutes a 3% **gross income tax** for the present 3% retail sales tax. With an exemption of \$100.00 per month or \$1200.00 per year, the **gross income tax** will not fall heavily upon the small income groups, such as farmers, wage earners and businessmen. In fact, with incomes of \$3000.00 or under, the tax will be less, in most instances, than the amount taken by the 3% retail sales tax, which always falls heaviest upon the low incomes. The rent of real or personal property cannot be separately taxed as income, under a decision of the State Supreme Court, and is exempt from the tax by this Act.

Writing of the **gross income tax** in a letter to Mr. John C. Cuneo, Modesto, California, Mr. Wm. Borthwick, Tax Commissioner of the Territory of Hawaii, says,

"I can honestly say that it (The Gross Income Tax) is the best form of taxation that we have. \* \* \* It has the unqualified endorsement of all honest businessmen in the Hawaiian Islands. \* \* \* The cost of collection of the Gross Income Tax is the lowest of any form of tax that we have. \* \* \* It saved the Territory of Hawaii from bankruptcy"

The above quotations are from a letter dated February 3rd, 1944 and speak for themselves. In a more recent letter to Mr. Cuneo, dated May 12, 1944, Mr. Borthwick writes,

## Argument for Initiative Measure No. 158

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"Our Gross Income Tax has produced so much money that we are compelled to cut the tax rate 16 $\frac{2}{3}$  percent. \* \* \* As you know, our rate was only 1 $\frac{1}{2}$  percent, now it will be 1 $\frac{1}{4}$  percent. We have a surplus of several million dollars. \* \* \* Our law is flexible and when too large a surplus accumulates, our Governor is compelled to reduce the rate. This is the second time the Governor has been forced to reduce the rate because of too large a surplus which proves the **gross income tax** to be a super, super tax. How could you beat our record? If you find anything better, let me know. We will try it."

**5. Initiative No. 158** will, if adopted, provide jobs, stabilize business, care for the aged, blind, disabled and widows with dependent child under 18 years of age. It introduces a new but tested form of tax, equitable for all. It is liberal, constructive and economically sound. It aims to insure prosperity for the post-war era.

Prepared by—

**ORLAND A. SCOTT**

For—

The Townsend Clubs of  
Washington,

**Sponsors of Initiative Measure No. 158.**

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STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State July 17, 1944.

BELLE REEVES,  
Secretary of State.



## ARGUMENT AGAINST INITIATIVE NO. 158

Initiative No. 158 is about the worst form of dangerous legislation. All fair-minded citizens believe that the aged and unfortunate people should be given decent, fair treatment, but the thought that there is an unlimited source of funds, a bottomless well, filled with money from which all may dip until satisfied, is dangerous to every one concerned.

Government is, after all, nothing but an organization of all the people, and, as such, has no money. Government costs money and collects money from every one of us. When government pays money to any class of people it means, simply, that we, the taxpayers, must pay, not an equal amount but a greater amount, into the fund from which distributions are to be made. Administration is an additional cost.

Regardless of its title and verbiage, Initiative No. 158 is a "Townsend" plan in its essential outline, including the theory of the pensioner being forced to spend all that he is given.

The proposal provides for a flat grant of \$60 per month for all persons over the age of 60 years residing in the state. Banker, laborer, pauper and invalid would receive the same treatment regardless of the financial condition and need of such person. The owner of the big car with its liveried driver would receive the same amount as the invalid without resources. The retired business man, while clipping his coupons from bonds, or while collecting interest, dividends or rents from investments previously made, would collect his \$60 along with the man or woman in the wheel chair with no other income.

Before voting for any such proposition, every voter should figure just what he is assuming for himself in the way of additional tax payments. According to the 1940 census, about 222,000 persons would be eligible for the pension, at a yearly cost that could reach \$160,000,000 exclusive of administration. There are in this state about 500,000 families who

must pay this bill and pay it every year. They will pay, all right, and continue to pay, for these laws have a way of remaining in force, and the tax collector, like the undertaker, calls at every home.

This initiative proposes a three per cent gross income tax upon every person and company, except that it exempts business leagues, chambers of commerce, labor and fraternal organizations, boards of trade, and other similar groups. Every time a commodity changes hands it will be taxed three per cent. The manufacturer, the wholesaler, the retailer, will all add this tax to the cost of the goods. There will be added to the cost of any item, three, six, nine, twelve, fifteen or more, per cent. Who knows how high it will pyramid? And the ultimate consumer will eventually pay all the tax. Yes, every one, including the pensioner, will pay it all when he buys his food. This is inflation at its worst.

All this is in addition to the present sales tax, for legal opinion seems to agree that the sales tax is not repealed.

Under present laws, federal assistance for old-age grants would be withdrawn and the entire burden would fall upon the taxpayers of this state.

This is "crackpot" legislation. It is not sound. It is not American. It cannot and will not work. It is in the same class as the quest for perpetual motion. It has been wisely rejected by our national congress. Its passage would do irreparable damage to state, school, and local government financing. It should be—and no doubt will be—defeated by the voters at the polls in November.

Do not fail to do your part. **Vote** against this fantastic proposal—**Initiative No. 158.**

WASHINGTON STATE TAX-  
PAYERS ASSOCIATION

HORACE C. BROWN, *Manager.*

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STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State July 26, 1944.

BELLE REEVES,  
*Secretary of State.*