

VETERANS' COMPENSATION COST-OF-LIVING
ADJUSTMENT ACT OF 2004

—————
JUNE 3, 2004.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 4175]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4175) to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as "Veterans' Compensation Cost-of-Living Adjustment Act of 2004".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) **RATE ADJUSTMENT.**—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) **AMOUNTS TO BE INCREASED.**—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) **COMPENSATION.**—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) **ADDITIONAL COMPENSATION FOR DEPENDENTS.**—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) **CLOTHING ALLOWANCE.**—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

SEC. 4. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

Section 1112(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

“(L) Osteoporosis.”.

SEC. 5. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 108-147.

(a) VETERANS’ DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) by striking “\$104” in subsection (a) and inserting “\$106”;

(2) by striking “\$201” in subsection (b) and inserting “\$205”;

(3) by striking “\$310” in subsection (c) and inserting “\$316”;

(4) by striking “\$445” in subsection (d) and inserting “\$454”;

(5) by striking “\$633” in subsection (e) and inserting “\$646”;

(6) by striking “\$801” in subsection (f) and inserting “\$817”;

(7) by striking “\$1,008” in subsection (g) and inserting “\$1,029”;

(8) by striking “\$1,171” in subsection (h) and inserting “\$1,195”;

(9) by striking “\$1,317” in subsection (i) and inserting “\$1,344”;

(10) by striking “\$2,193” in subsection (j) and inserting “\$2,239”;

(11) in subsection (k)—

(A) by striking “\$81” both places it appears and inserting “\$82”; and

(B) by striking “\$2,728” and “\$3,827” and inserting “\$2,785” and “\$3,907”, respectively;

(12) by striking “\$2,728” in subsection (l) and inserting “\$2,785”;

(13) by striking “\$3,010” in subsection (m) and inserting “\$3,073”;

(14) by striking “\$3,425” in subsection (n) and inserting “\$3,496”;

(15) by striking “\$3,827” each place it appears in subsections (o) and (p) and inserting “\$3,907”;

(16) by striking “\$1,643” and “\$2,446” in subsection (r) and inserting “\$1,677” and “\$2,497”, respectively; and

(17) by striking “\$2,455” in subsection (s) and inserting “\$2,506”.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) by striking “\$125” in subparagraph (A) and inserting “\$127”;

(2) by striking “\$215” and “\$64” in subparagraph (B) and inserting “\$219” and “\$65”, respectively;

(3) by striking “\$85” and “\$64” in subparagraph (C) and inserting “\$86” and “\$65”, respectively;

- (4) by striking “\$101” in subparagraph (D) and inserting “\$103”;
 - (5) by striking “\$237” in subparagraph (E) and inserting “\$241”; and
 - (6) by striking “\$198” in subparagraph (F) and inserting “\$202”.
- (c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking “\$588” and inserting “\$600”.
- (d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) of such title is amended—
- (A) by striking “\$948” in paragraph (1) and inserting “\$967”; and
 - (B) by striking “\$204” in paragraph (2) and inserting “\$208”.
- (2) The table in section 1311(a)(3) of such title is amended to read as follows:

“Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$967	W-4	\$1,157
E-2	\$967	O-1	\$1,022
E-3	\$967	O-2	\$1,056
E-4	\$967	O-3	\$1,130
E-5	\$967	O-4	\$1,195
E-6	\$967	O-5	\$1,316
E-7	\$1,000	O-6	\$1,483
E-8	\$1,056	O-7	\$1,602
E-9	\$1,102 ¹	O-8	\$1,758
W-1	\$1,022	O-9	\$1,881
W-2	\$1,063	O-10	\$2,063 ²
W-3	\$1,094		

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,189.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$2,213.”.

- (3) Section 1311(b) of such title is amended by striking “\$237” and inserting “\$241”.
- (4) Section 1311(c) of such title is amended by striking “\$237” and inserting “\$241”.
- (5) Section 1311(d) of such title is amended by striking “\$113” and inserting “\$115”.
- (e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) of such title is amended—
- (A) by striking “\$402” in paragraph (1) and inserting “\$410”;
 - (B) by striking “\$578” in paragraph (2) and inserting “\$590”;
 - (C) by striking “\$752” in paragraph (3) and inserting “\$767”; and
 - (D) by striking “\$752” and “\$145” in paragraph (4) and inserting “\$767” and “\$148”, respectively.
- (2) Section 1314 of such title is amended—
- (A) by striking “\$237” in subsection (a) and inserting “\$241”;
 - (B) by striking “\$402” in subsection (b) and inserting “\$410”; and
 - (C) by striking “\$201” in subsection (c) and inserting “\$205”.

INTRODUCTION

On April 20, 2004, the Chairman and Ranking Member of the Veterans’ Affairs Committee, Honorable Christopher H. Smith and Honorable Lane Evans, along with the Chairman and Ranking Member of the Subcommittee on Benefits, Honorable Henry E. Brown, Jr., and Honorable Michael H. Michaud, introduced H.R. 4175, which would provide a cost-of-living adjustment (COLA) in the rates of service-connected disability compensation and dependency and indemnity compensation, effective December 1, 2004.

On April 29, 2004, the Subcommittee on Benefits held a hearing on ten bills, including H.R. 348, introduced on January 27, 2003, by Honorable Michael Bilirakis.

On May 13, 2004, the Subcommittee on Benefits met and ordered H.R. 4175 reported favorably, as amended, to the full Committee by unanimous voice vote.

On May 19, 2004, the full Committee met and ordered H.R. 4175 reported favorably, as amended, to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 4175, as amended, would:

1. Provide effective December 1, 2004, a cost-of-living adjustment to the rates of disability compensation for veterans with service-connected disabilities and to the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans. The percentage amount would be equal to the increase for benefits provided under the Social Security Act, which is calculated based upon changes in the Consumer Price Index.
2. Add osteoporosis to the list of diseases presumed to be service connected for former prisoners of war for the purposes of veterans' benefits.
3. Codify the current dollar amounts of disability compensation and dependency and indemnity compensation, as provided for in Public Law 108-147.

BACKGROUND AND DISCUSSION

Increase in rates of disability compensation and dependency and indemnity compensation.—Section 2 of the bill would increase, effective December 1, 2004, the rates of compensation for service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for surviving spouses and children of veterans who die of service-connected causes, as well as the additional amounts for dependents and survivors, and clothing allowances for certain veterans. With H.R. 4175, the Committee is following its long-standing practice of setting the cost-of-living adjustment (COLA) by reference to the yet-to-be-determined Social Security increase. At the time of the filing of this report, the increase is expected to be 1.7 percent, but it may be higher or lower depending on changes in the Consumer Price Index; the exact percentage is calculated as of September 30, 2004. Last year's increase was 2.1 percent.

More than 2.5 million veterans were receiving service-connected disability compensation as of April 2004. The basic purpose of the disability compensation program is to provide a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability. This amount in turn is required by law to represent, to the extent practicable, the average impairment in earning capacity in civilian occupations resulting from such disability or combination of disabilities.

To be eligible to receive disability compensation, a veteran must have a disability incurred or aggravated during military service, which is not the result of willful misconduct, and have been discharged under other than dishonorable conditions. The responsibility for determining a veteran's entitlement to service-connection for a disability rests solely with the Department of Veterans Affairs (VA).

As of April 2004, there were 301,328 surviving spouses and 29,938 children receiving dependency and indemnity compensation

(DIC). Surviving spouses and dependent children of veterans who died of disabilities determined by VA to be service-connected (including veterans who died while on active duty) or who had a service-connected disability rated at 100 percent for certain periods of time prior to death are entitled to receive monthly DIC benefits.

The purpose of DIC benefits authorized under chapter 13 of title 38, United States Code, is to provide partial compensation to the appropriate survivors for the loss in financial support due to the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement because the Nation in part assumes the legal and moral obligation of the veteran to support the spouse and children.

The Committee annually reviews the service-connected disability compensation and DIC programs to ensure such benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, Congress acts annually to provide a COLA in compensation and DIC benefits. Congress has provided annual increases in these rates for every fiscal year since 1976.

Improved veterans' benefits for former prisoners of war.—Section 4 of the bill would add osteoporosis to the list of diseases presumed to be the result of prisoner of war (POW) status. Section 1112(b) of title 38, United States Code, specifies 16 disabilities that VA presumes are related to the POW experience for the purposes of veterans' and survivors' benefits.

The Committee notes that in September 2003, the Secretary of Veterans Affairs formed a Workgroup on Presumptive Medical Conditions in Former Prisoners of War. Its mission is to develop a methodology for a fair and balanced assessment of medical conditions identified as associated with POW detention, and recommend to the Secretary any conditions it believes warrant either presumptive status or further study. Among other responsibilities and functions, the workgroup will consider diseases brought to their attention by the Secretary's Advisory Committee on Former Prisoners of War, veterans service organizations, and other interested parties. The workgroup is comprised of representatives from the Veterans Health Administration, Veterans Benefits Administration, and the Office of General Counsel.

Codification of cost-of-living adjustment provided in Public Law 108-147.—Section 5 of the bill would codify as dollar amounts the current rates of compensation for service-connected disabilities and the rates of dependency and indemnity compensation for surviving spouses and children of veterans who die of service-connected causes, as well as the additional amounts for dependents and survivors, and clothing allowances for certain veterans. These rates went into effect on December 1, 2003, pursuant to Public Law 108-147, which was signed by President Bush on December 3, 2003.

SECTION-BY-SECTION ANALYSIS

Section 1 would provide that this Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2004".

Section 2(a) would authorize the Secretary of Veterans Affairs to increase, effective December 1, 2004, the dollar amounts in effect

for the payment of disability compensation and dependency and indemnity compensation.

Section 2(b) would specify the programs to receive increased dollar amounts: compensation, additional compensation for dependents, clothing allowance, rates under the “new” DIC program, rates under the “old” DIC program, additional DIC for surviving spouses with minor children, additional DIC for disability, and DIC for dependent children.

Section 2(c)(1) would increase the dollar amounts for those programs specified in subsection (b) based on the amount in effect on November 30, 2004.

Section 2(c)(2) would specify that each amount shall be increased by the same percentage by which benefits are increased under title II of the Social Security Act (42 U.S.C. 401 et seq.).

Section 2(c)(3) would round down to the next lower dollar amount all compensation and DIC benefits, when the amount is not a whole dollar amount.

Section 2(d) would provide a special rule authorizing the Secretary of Veterans Affairs to adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263), who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Section 3 would require the Secretary of Veterans Affairs to publish in the Federal Register the amounts specified in subsection (b), as increased pursuant to that section.

Section 4 would amend section 1112(b)(3) by adding osteoporosis to the list of diseases presumed to be the result of prisoner of war status.

Section 5 would codify the cost-of-living adjustments provided in Public Law 108–147.

PERFORMANCE GOALS AND OBJECTIVES

The reported bill would authorize veterans benefits enhancements under laws administered by the Secretary of Veterans Affairs. The Department of Veterans Affairs’ performance goals and objectives are established in annual performance plans and are subject to the Committee’s regular oversight and evaluation by the U.S. General Accounting Office. VA also publishes a performance and accountability report for each fiscal year.

STATEMENTS OF THE VIEWS OF THE ADMINISTRATION

The Administration’s fiscal year 2005 budget request, submitted in February 2004, recommended a cost-of-living adjustment based on the change in the Consumer Price Index (CPI) be given to all compensation beneficiaries, including DIC recipients, effective December 1, 2004. The estimated increase in the CPI at that time was 1.3 percent.

STATEMENT OF ROBERT J. EPLEY, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT, VETERANS BENEFITS ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS

APRIL 29, 2004

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H.R. 348

You also requested our views, Mr. Chairman, on H.R. 348, the “Prisoner of War Benefits Act of 2003.”

Section 2(a) and (b) of H.R. 348 would eliminate the requirement that a former prisoner of war (POW) be detained or interned for at least thirty days in order to be eligible for a presumption of service connection for certain diseases and at least ninety days in order to be eligible to receive VA care and treatment for a dental condition or disability. Congress dealt with the issues covered by subsections 2(a) and (b) during the First Session of the 108th Congress. Section 201 of the Veterans Benefits Act of 2003, Public Law 108–183, eliminated the thirty-day detention requirement in order for a former POW to be eligible for a presumption of service connection for psychosis, any of the anxiety states, dysthymic disorder (or depressive neurosis), organic residuals of frostbite, and post-traumatic osteoarthritis. Section 101 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003, Public Law 108–170, eliminated the ninety-day detention requirement in order for a former POW to be eligible for VA care and treatment for a dental condition or disability.

Section 2(c) of H.R. 348 would add heart disease, stroke, liver disease, type 2 diabetes, and osteoporosis to the list of diseases for which a presumption of service connection is available pursuant to 38 U.S.C. § 1112(b). Section 2(c) would also authorize the Secretary to promulgate regulations creating a presumption of service connection for any other disease which the Secretary determines has a “positive association with the experience of being a [POW].” A “positive association” would exist “if the credible evidence for the association is equal to or outweighs the credible evidence against the association.” In deciding whether to promulgate such a regulation, the Secretary would be required to consider the recommendations of the Advisory Committee on Former POWs and any other available sound medical and scientific information and analyses. VA would have sixty days from receipt of an Advisory Committee recommendation to make a determination as to whether a presumption of service connection is warranted, and then another sixty days to publish in the Federal Register either proposed regulations, if VA determines that a presumption is warranted, or a notice explaining the scientific basis for a determination that a presumption is not warranted.

VA strongly supports enactment of section 2(c) of H.R. 348, provided that the Congress can find offsetting savings. No one can reasonably doubt that the stresses and privations endured by prisoners of war take heavy tolls on their health in ways that may never be fully understood. The majority of former POWs are aging veterans of World War II who are unable to wait for science to provide definitive answers. Moreover, former POWs as a group do not benefit from relatively relaxed statutory standards—such as the positive-association standard applied in the case of all Vietnam veterans because of their potential for exposure to defoliants used there—for weighing the scientific evidence regarding associations between their service experience and later occurring diseases. There is some scientific evidence suggesting an association between the POW experience and each of the illnesses covered by the bill, and because these veterans are particularly deserving of special consideration they too should be accorded the benefit of the doubt.

VA is also working administratively to address the needs of former POWs for full and fair compensation. In December 2003 the Secretary tasked a work group of Veterans Health Administration, Veterans Benefits Administration and Office of General Counsel officials to 1) develop a methodology for the fair and balanced assessment of medical conditions associated with detention as a POW, and 2) recommend to him any conditions that, when this methodology is applied, warrant designation as presumptively service connected.

The work group has met several times and will shortly be recommending to the Secretary a proposed methodology for consideration of additional diseases. In developing its recommendations, the group has been mindful of the standards Congress has adopted for application in other contexts; i.e., for herbicide-exposed Vietnam veterans and veterans of the Gulf War. We pledge to work through these difficult issues as quickly as possible and to keep this Committee informed of our progress.

We estimate that enactment of section 2(a) and (c) of H.R. 348 would have mandatory costs of \$33.8 million in fiscal year 2005 and a 10-year cost of \$588.8 million.

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CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 25, 2004

Hon. CHRISTOPHER H. SMITH
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright, who can be reached at 226-2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 25, 2004

*H.R. 4175, Veterans' Compensation Cost-of-Living Adjustment Act
of 2004*

*As ordered reported by the House Committee on Veterans' Affairs on
May 19, 2004*

H.R. 4175 would increase the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation by the same cost-of-living adjustment (COLA) payable to Social Security recipients. The increase would take effect on December 1, 2004, and the results of the adjustment would be rounded to the next lower dollar. In addition, the bill would add osteoporosis to the list of diseases that are presumed service-connected for former prisoners-of-war (POWs), and codify the cost-of-living adjustments (COLAs) provided by the Veterans' Compensation Cost-of-Living Adjustment Act of 2003 (Public Law 108-147).

The COLA that would be authorized by this bill is assumed in CBO's baseline, pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act, and savings from rounding it down were achieved by the Balanced Budget Act of 1997 (Public Law 105-33) and extended to 2013 by the Veterans Benefits Act of 2003 (Public Law 108-183).

Because the COLA is assumed in the baseline, the COLA provision would have no budgetary effect relative to the baseline. Relative to current law, CBO estimates that enacting this provision would increase spending for these programs by about \$466 million in 2005. (The annualized cost would be about \$620 million in subsequent years.) This estimate assumes that the COLA effective on December 1, 2004, would be 1.5 percent.

Section 4 of the bill would add osteoporosis to the list of disabilities that the Department of Veterans Affairs (VA) assumes are service-connected for former POWs. Thus, under the bill, former POWs with osteoporosis would be eligible for disability compensation and, if a former POW dies as a result of this condition certain, survivors would be eligible for dependency and indemnity compensation (DIC).

Based on information provided by VA, CBO estimates that there are currently 37,000 living former POWs. Applying prevalence rates for osteoporosis obtained from the National Center for Health Statistics and other sources, CBO estimates that in 2005, about 440 former POWs would become newly eligible for disability compensation for osteoporosis under section 4.

CBO assumes that about 50 percent of former POWs who are not already receiving disability compensation and 60 percent of former POWs who are currently receiving disability compensation would apply for the new benefit. CBO assumes that new compensation cases would phase in over three years so that by 2007 about 120 new compensation cases would begin receiving disability compensation for osteoporosis. This figure excludes veterans who already have a disability rating of 100 percent for other service-connected disabilities and who would therefore not be eligible for an increase in their disability compensation rating.

CBO derived the weighted average of payments made to veterans currently receiving disability compensation for osteoporosis to determine the increase in disability compensation payments under section 4. Based on information provided by VA, veterans receiving payments for osteoporosis were paid on average about \$1,300 in 2003 in disability compensation payments. These payments are adjusted annually for increases in COLA. Former POWs not receiving disability compensation payments for other disabilities would receive this amount, while former POWs currently receiving disability compensation would receive an increase above their current level of disability compensation, unless they are already rated at 100 percent disabled.

Under current law, certain survivors of former POWs can qualify for DIC if one of the following two criteria:

- The former POW died of a service-connected disability; or
- The former POW was continuously rated 100 percent for a service-connected disability for one year prior to death.

Survivors of veterans who meet one of these criteria would already be eligible for DIC under current law. Because osteoporosis would be considered a service-connected disability under section 4, certain survivors of veterans who die as a result of one of the diseases would become newly eligible for DIC under the bill.

CBO was unable to obtain mortality rates for osteoporosis; however, because the disease has a low prevalence rate in men

and does not generally lead directly to death, we estimate that the potential increase in spending for DIC payments under section 4 from former POWs dying as a result of osteoporosis would be insignificant.

Taken together, CBO estimates that enacting section 4 would increase payments for disability compensation and DIC by less than \$500,000 in 2005, about \$1 million over the 2005–2009 period, and \$2 million over the 2005–2014 period.

H.R. 4175 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On January 29, 2004, CBO transmitted a cost estimate for H.R. 348, as introduced on January 27, 2003. H.R. 348 included five additional diseases as presumed service-connected diseases for former POWs—heart disease, stroke, diabetes mellitus, liver disease, and osteoporosis.

CBO’s estimate of the cost of adding osteoporosis to the list of presumed service-connected diseases contained in H.R. 348 is identical to the cost estimated for Section 4 of H.R. 4175.

The CBO staff contact for federal costs is Dwayne M. Wright, who can be reached at 226–2840. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office cost estimate states that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress’ power to “provide for the common Defense and general Welfare of the United States.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART II—GENERAL BENEFITS

* * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

* * * * *

§ 1112. Presumptions relating to certain diseases and disabilities

(a) * * *

(b)(1) * * *

* * * * *

(3) The diseases specified in this paragraph are the following:

(A) * * *

* * * * *

(L) *Osteoporosis.*

* * * * *

§ 1114. Rates of wartime disability compensation

For the purposes of section 1110 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be ~~【\$104】~~ \$106;

(b) if and while the disability is rated 20 percent the monthly compensation shall be ~~【\$201】~~ \$205;

(c) if and while the disability is rated 30 percent the monthly compensation shall be ~~【\$310】~~ \$316;

(d) if and while the disability is rated 40 percent the monthly compensation shall be ~~【\$445】~~ \$454;

(e) if and while the disability is rated 50 percent the monthly compensation shall be ~~【\$633】~~ \$646;

(f) if and while the disability is rated 60 percent the monthly compensation shall be ~~【\$801】~~ \$817;

(g) if and while the disability is rated 70 percent the monthly compensation shall be ~~【\$1,008】~~ \$1,029

(h) if and while the disability is rated 80 percent the monthly compensation shall be ~~【\$1,171】~~ \$1,195;

(i) if and while the disability is rated 90 percent the monthly compensation shall be ~~【\$1,317】~~ \$1,344;

(j) if and while the disability is rated as total the monthly compensation shall be ~~【\$2,193】~~ \$2,239;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, or, in the case of a woman veteran, has suffered the anatomical loss of 25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or has received radiation treatment of breast tissue, the rate of compensation therefor shall be ~~【\$81】~~ \$82 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed ~~【\$2,728】~~ \$2,785 per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to

the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by ~~【\$81】~~ \$82 per month for each such loss or loss of use, but in no event to exceed ~~【\$3,827】~~ \$3,907 per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be ~~【\$2,728】~~ \$2,785;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be ~~【\$3,010】~~ \$3,073;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be ~~【\$3,425】~~ \$3,496;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be ~~【\$3,827】~~ \$3,907;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Secretary may allow the next higher rate or an intermediate rate, but in no event in excess of ~~【\$3,827】~~ \$3,907. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one

or both ears is service connected) rated at no less than 30 percent disabling, the Secretary shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Secretary shall allow the next intermediate rate, but in no event in excess of ~~[\$3,827]~~ \$3,907. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Secretary shall allow the next intermediate rate, but in no event in excess of ~~[\$3,827]~~ \$3,907. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Secretary shall allow the next higher rate or intermediate rate, but in no event in excess of ~~[\$3,827]~~ \$3,907. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

(r) Subject to section 5503(c) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of ~~[\$1,643]~~ \$1,677; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of ~~[\$2,446]~~ \$2,497, in lieu of the allowance authorized in clause (1) of this subsection, if the Secretary finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

* * * * *

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be ~~[\$2,455]~~ \$2,506. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

§ 1115. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 1114 of this title, and whose disability is rated not less than

30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

- (1) If and while rated totally disabled and—
 - (A) has a spouse but no child, ~~[\$125]~~ \$127;
 - (B) has a spouse and one or more children, ~~[\$215]~~ \$219 plus ~~[\$64]~~ \$65 for each child in excess of one;
 - (C) has no spouse but one or more children, ~~[\$85]~~ \$86 plus ~~[\$64]~~ \$65 for each child in excess of one;
 - (D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, ~~[\$101]~~ \$103 for each parent so dependent;
 - (E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be ~~[\$237]~~ \$241 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and
 - (F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be ~~[\$198]~~ \$202 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

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SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

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§ 1162. Clothing allowance

The Secretary under regulations which the Secretary shall prescribe, shall pay a clothing allowance of ~~[\$588]~~ \$600 per year to each veteran who—

- (1) * * *
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**CHAPTER 13—DEPENDENCY AND INDEMNITY
COMPENSATION FOR SERVICE-CONNECTED DEATHS**

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**SUBCHAPTER II—DEPENDENCY AND INDEMNITY
COMPENSATION**

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§ 1311. Dependency and indemnity compensation to a surviving spouse

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of ~~[\$948]~~ \$967.

(2) The rate under paragraph (1) shall be increased by ~~[\$204]~~ \$208 in the case of the death of a veteran who at the time of death

was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$948	W-4	\$1,134
E-2	948	O-1	1,001
E-3	948	O-2	1,035
E-4	948	O-3	1,107
E-5	948	O-4	1,171
E-6	948	O-5	1,289
E-7	980	O-6	1,453
E-8	1,035	O-7	1,570
E-9	¹ 1,080	O-8	1,722
W-1	1,001	O-9	1,843
W-2	1,042	O-10	² 2,021
W-3	1,072		

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,165.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$2,168.1

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$967	W-4	\$1,157
E-2	\$967	O-1	\$1,022
E-3	\$967	O-2	\$1,056
E-4	\$967	O-3	\$1,130
E-5	\$967	O-4	\$1,195
E-6	\$967	O-5	\$1,316
E-7	\$1,000	O-6	\$1,483
E-8	\$1,056	O-7	\$1,602
E-9	\$1,102 ¹	O-8	\$1,758
W-1	\$1,022	O-9	\$1,881
W-2	\$1,063	O-10	\$2,063 ²
W-3	\$1,094		

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,189.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$2,213.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by ~~[\$237]~~ \$241 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by ~~[\$237]~~ \$241 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by ~~[\$113]~~ \$115 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be

considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

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§ 1313. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

- (1) one child, **[\$402] \$410**;
- (2) two children, **[\$578] \$590**;
- (3) three children, **[\$752] \$767**; and
- (4) more than three children, **[\$752] \$767**, plus **[\$145] \$148** for each child in excess of three.

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§ 1314. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[\$237] \$241**.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[\$402] \$410**.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[\$201] \$205**.

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