

TO AMEND THE FEDERAL CHARTER OF THE VETERANS OF FOREIGN
WARS OF THE UNITED STATES TO REFLECT THE SERVICE OF WOMEN
IN THE ARMED FORCES OF THE UNITED STATES

NOVEMBER 17, 2014.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5441]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 5441) to amend the Federal charter of the Veterans of For-
eign Wars of the United States to reflect the service of women in
the Armed Forces of the United States, having considered the
same, report favorably thereon without amendment and rec-
ommend that the bill do pass.

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Purpose and Summary

This bill amends the charter of the Veterans of Foreign Wars of
the United States to be gender-neutral.

Background and Need for the Legislation

WOMEN IN MILITARY SERVICE

The Congressional Research Service reports that:

Over the last few years, women have become more involved in combat operations. Since September 2001 (to February 28, 2013), 299,548 female service members have been deployed for contingency operations in Iraq and Afghanistan. In approximately 12 years of combat operations in Iraq and Afghanistan, over 800 women have been wounded and over 130 have died. According to the Department of Defense (DOD), as of February 29, 2013, 16,407 female members were currently deployed in contingency operation. Women have been recognized for their heroism, two earning Silver Star medals.

The expansion of roles for women in the armed forces has evolved over decades. Women are not precluded from serving in any military unit by law today. DOD policy restricting women from serving in ground combat units was most recently modified in 1994 and 2013. Under the 1994 policy, women could not be assigned to units, below the brigade level, whose primary mission is to engage in direct combat on the ground. Primarily, this meant that women were barred from infantry, artillery, armor, combat engineers, and special operations units of battalion size or smaller. On January 24, 2013, then-Secretary of Defense Leon Panetta rescinded the rule that restricted women from serving in combat units.¹

The American Forces Press Service reports that:

Efforts continue for the services and U.S. Special Operations Command to meet a Jan. 1, 2016, deadline by which all military positions and occupations will be open to women, a senior Pentagon official said. . . .

Juliet Beyler, officer and enlisted personnel management director in the office of the undersecretary of defense for personnel and readiness, said interim steps are in place to complete the full implementation of the January 2013 rescission of the 1994 Direct Ground Combat Definition and Assignment Rule.

“Anybody should be able to serve in any position, based on their ability, based on their qualifications, unless there’s a valid reason to keep it closed,” Beyler said.

The first step, Beyler said, is to review and validate all military occupation standards, a process she said will take time and has a completion deadline of September 2015.

By 2016, Beyler explained, service leaders will need to inform the defense secretary and the chairman of the Joint Chiefs of Staff of the decision either to open all remaining closed positions to women or provide a valid, detailed reason on why a position needs to remain closed.

¹ David Burrelli, *Women in Combat: Issues for Congress*, 2013 CRS Report for Congress.

“The presumption is it will open unless they justify otherwise,” she added, “and any exception to keep a position closed come Jan. 1, 2016, has to be personally approved by both the secretary and the chairman.”²

FEDERAL CHARTERS

A Federal charter is an Act of Congress passed for a private, non-profit organization. The reason for seeking one is to give an organization the honor of Federal recognition. These charters grant no new privileges or Federal legal rights to organizations. Currently, the Judiciary Committee has jurisdiction over about 90 Federal charters. On March 14, 2013, the Subcommittee on Immigration and Border Security adopted the policy of the Judiciary Committee subcommittee of jurisdiction since the 101st Congress of not granting new Federal charters. However, the policy provides that the subcommittee can continue to consider legislation to amend existing charters when necessary.

THE VETERANS OF FOREIGN WARS

The Veterans of Foreign Wars of the United States (VFW) has been a federally chartered organization since 1936.³ The purposes of the corporation are “fraternal, patriotic, historical, charitable, and educational, and are—

- (1) to preserve and strengthen comradeship among its members;
- (2) to assist worthy comrades;
- (3) to perpetuate the memory and history of our dead, and to assist their widows and orphans;
- (4) to maintain true allegiance to the Government of the United States, and fidelity to its Constitution and laws;
- (5) to foster true patriotism;
- (6) to maintain and extend the institutions of American freedom; and
- (7) to preserve and defend the United States from all enemies.”⁴

The VFW states that:

The VFW traces its roots back to 1899 when veterans of the Spanish-American War (1898) and the Philippine Insurrection (1899–1902) founded local organizations to secure rights and benefits for their service. Many arrived home wounded or sick. There was no medical care or veterans’ pension for them, and they were left to care for themselves.

In their misery, some of these veterans banded together and formed organizations with what would become known as the Veterans of Foreign Wars of the United States. After chapters were formed in Ohio, Colorado and Pennsylvania, the movement quickly gained momentum. By 1915, membership grew to 5,000; by 1936, membership was almost 200,000.

²Amaani Lyle, *Work Continues to Open Military Occupations to Women*, American Forces Press Service, April 7, 2014. See also Memorandum by Martin Dempsey, Chairman, Joint of the Joint Chiefs of Staff and Leon Panetta, Secretary of Defense, to Secretaries of the Military Departments Acting under Secretary of Defense for Personnel and Readiness and Chiefs of the Military Services, Jan. 24, 2013.

³See 36 U.S.C. sec. 230101.

⁴36 U.S.C. sec. 230102.

Since then, the VFW's voice had been instrumental in establishing the Veterans Administration, creating a GI bill for the 20th century, the development of the national cemetery system and the fight for compensation for Vietnam vets exposed to Agent Orange and for veterans diagnosed with Gulf War Syndrome. In 2008, VFW won a long-fought victory with the passing of a GI Bill for the 21st Century, giving expanded educational benefits to America's active-duty service members, and members of the Guard and Reserves, fighting in Iraq and Afghanistan.

The VFW also has fought for improving VA medical centers services for women veterans.

Besides helping fund the creation of the Vietnam, Korean War, World War II and Women in Military Service memorials, the VFW in 2005 became the first veterans' organization to contribute to building the new Disabled Veterans for Life Memorial. . . .

Annually, the nearly 1.9 million members of the VFW and its Auxiliaries contribute more than 8.6 million hours of volunteerism in the community, including participation in Make A Difference Day and National Volunteer Week.

From providing over \$3 million in college scholarships and savings bonds to students every year, to encouraging elevation of the Department of Veterans Affairs to the president's cabinet, the VFW is there.⁵

Membership in the VFW is open to an individual:

[O]nly if the individual served honorably as a member of the Armed Forces of the United States——

(1) in a foreign war, insurrection, or expedition in service that——

(A) has been recognized as campaign-medal service; and

(B) is governed by the authorization of the award of a campaign badge by the United States Government;

(2) on the Korean peninsula or in its territorial waters for at least 30 consecutive days, or a total of 60 days, after June 30, 1949; or

(3) in an area which entitled the individual to receive special pay for duty subject to hostile fire or imminent danger under section 310 of title 37.⁶

Membership does not require that a service member have engaged in actual combat, only that they served in a combat zone.

The Executive Director of the VFW's Washington, D.C. office sent a letter to the Committee requesting that the Committee amend its Federal charter. The letter stated that:

The [VFW] was formed in 1899 and was chartered by Congress in 1936, at a time when military service was limited

⁵ See VFW website.

⁶ 36 U.S.C. sec. 230103.

to men. Today, our military consists of both men and women who honorably put duty and service before themselves. Consistent with the growing number of military women who serve at all levels, women are taking leadership roles throughout our organization.

The VFW strongly believes that combat service, not gender, determines VFW membership eligibility. That is why we opened our membership to women over 35 years ago. However, our Congressional Charter does not reflect this reality.”⁷

H.R. 5441 makes the language of the VFW’s charter gender-neutral. The VFW is supportive of the bill.⁸

Hearings

The Committee on the Judiciary held no hearings on H.R. 5441.

Committee Consideration

On November 13, 2014, the Committee met in open session and ordered the bill H.R. 5441 favorably reported without amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee’s consideration of H.R. 5441.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5441, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

⁷Letter from Robert Wallace, Executive Director, VFW Washington Office, to Bob Goodlatte (September 29, 2014).

⁸See *id.*

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 14, 2014.

Hon. BOB GOODLATTE, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5441, a bill to amend the Federal charter of the Veterans of Foreign Wars of the United States to reflect the service of women in the armed forces of the United States.

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

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc:

Honorable John Conyers, Jr.
Ranking Member

H.R. 5441—A bill to amend the Federal charter of the Veterans of Foreign Wars of the United States to reflect the service of women in the armed forces of the United States.

As ordered reported by the House Committee on the Judiciary
on November 13, 2014.

H.R. 5441 would amend the Federal charter for the Veterans of Foreign Wars of the United States by replacing gender specific language with terms that are gender neutral. Those changes would confer no Federal benefits, nor would they impose requirements upon the Federal Government. Thus, CBO estimates that enacting H.R. 5441 would have no budgetary effect.

Because H.R. 5441 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

H.R. 5441 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is William Ma. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Duplication of Federal Programs

No provision of H.R. 5441 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the

Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee estimates that H.R. 5441 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5441 amends the charter of the Veterans of Foreign Wars of the United States to be gender-neutral.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5441 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Reflection of Service of Women in the Armed Forces in the Federal Charter of the Veterans of Foreign Wars of the United States. The VFW's charter provides that the VFW is a "national association of *men* who as soldiers, sailors, marines, and airmen served this Nation in wars, campaigns and expeditions on foreign soil or in hostile waters. . . ." ⁹ Subsection (a) replaces "men" with "veterans". The charter provides that one of the purposes of the organization is "to perpetuate the memory and history of our dead, and to assist their *widows* and orphans. . . ." ¹⁰ Subsection (b) replaces "widows" with "surviving spouses."

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

⁹ 36 U.S.C. sec. 230101 (emphasis added).

¹⁰ 36 U.S.C. sec. 230102 (emphasis added).

TITLE 36, UNITED STATES CODE

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SUBTITLE II—PATRIOTIC AND NATIONAL ORGANIZATIONS

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PART B—ORGANIZATIONS

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CHAPTER 2301—VETERANS OF FOREIGN WARS OF THE UNITED STATES

* * * * *

§ 230101. Organization

(a) **FEDERAL CHARTER.**—Veterans of Foreign Wars of the United States (in this chapter, the “corporation”), a national association of **men** *veterans* who as soldiers, sailors, marines, and airmen served this Nation in wars, campaigns, and expeditions on foreign soil or in hostile waters, is a federally chartered corporation.

* * * * *

§ 230102. Purposes

The purposes of the corporation are fraternal, patriotic, historical, charitable, and educational, and are—

(1) * * *

* * * * *

(3) to perpetuate the memory and history of our dead, and to assist their **widows** *surviving spouses* and orphans;

* * * * *