

TO AMEND TITLE 36, UNITED STATES CODE, TO MAKE CERTAIN IMPROVEMENTS IN THE CONGRESSIONAL CHARTER OF THE DISABLED AMERICAN VETERANS

NOVEMBER 30, 2015.—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. 1755]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1755) to amend title 36, United States Code, to make certain improvements in the congressional charter of the Disabled American Veterans, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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**Purpose and Summary**

H.R. 1755 makes changes to the Federal charter of Disabled American Veterans to better reflect its mission.

### **Background and Need for the Legislation**

Disabled American Veterans (“DAV”) was established in 1920 and received a Federal charter in 1932.<sup>1</sup> Its purposes are:

- 1) to uphold and maintain the Constitution and laws of the United States;
- 2) to realize the true American ideals and aims for which those eligible to membership fought;
- 3) to advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans;
- 4) to cooperate with the Department of Veterans Affairs and all other public and private agencies devoted to the cause of improving and advancing the condition, health, and interests of all wounded, injured, and disabled veterans;
- 5) to stimulate a feeling of mutual devotion, helpfulness, and comradeship among all wounded, injured, and disabled veterans;
- 6) to serve our comrades, our communities, and our country, and
- 7) to encourage in all people that spirit of understanding which will guard against future wars.<sup>2</sup>

DAV has over 1.2 million members, with membership open to a person who:

was wounded, gassed, injured, or disabled in the line of duty during time of war while in the service of the military or naval forces of the United States; and . . . was honorably discharged or separated from that service or is still in active service in the Armed Forces of the United States or . . . was disabled while serving with any of the Armed Forces of a country associated with the United States as an ally during any of its war periods . . . is a citizen of the United States; and . . . was honorably discharged.<sup>3</sup>

The mission statement of DAV states that:

We are dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. We accomplish this by ensuring that veterans and their families can access the full range of benefits available to them; fighting for the interests of America’s injured heroes on Capitol Hill; and educating the public about the great sacrifices and needs of veterans transitioning back to civilian life.

- Providing free, professional assistance to veterans and their families in obtaining benefits and services earned through military service and provided by the Depart-

<sup>1</sup>See 36 U.S.C. sec. 50301 & DAV website.

<sup>2</sup>36 U.S.C. sec. 50302.

<sup>3</sup>36 U.S.C. sec. 50303 & DAV website.

ment of Veterans Affairs (VA) and other agencies of government.

- Providing outreach concerning its program services to the American people generally, and to disabled veterans and their families specifically.
- Representing the interests of disabled veterans, their families, their widowed spouses and their orphans before Congress, the White House and the Judicial Branch, as well as state and local government.
- Extending DAV's mission of hope into the communities where these veterans and their families live through a network of state-level Departments and local Chapters.
- Providing a structure through which disabled veterans can express their compassion for their fellow veterans through a variety of volunteer programs.<sup>4</sup>

DAV sent a letter to the Committee requesting a change in its Federal charter:

For decades, DAV has been exempt from Federal taxation under Section 501(c)(4) of the Internal Revenue Code<sup>5</sup> and its predecessor sections. This designation applies to “social welfare organizations.” Donations to most 501(c)(4) organizations are *not* deductible for income or estate tax purposes. DAV is a rare exception, as it qualifies to receive deductible contributions as a “war veterans” organization.<sup>6</sup>

Many donors, even sophisticated donors, believe incorrectly that charitable deductions are available only for gifts made to a 501(c)(3) organization,<sup>7</sup> more commonly known as a “public charity.” We believe that this misconception has been limiting DAV's opportunities to gain corporate support and major gifts, including bequests.

<sup>4</sup> DAV website.

<sup>5</sup> Organizations are exempt from Federal corporate and certain other taxes if they are “[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes [so long as] no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.” 26 U.S.C. sec. 501(c)(4).

<sup>6</sup> See 26 U.S.C. sec. 501(c)(4).

<sup>7</sup> 26 U.S.C. sec. 170(c)(3) provides that deductible charitable contributions can be made to “[a] post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—(A) organized in the United States or any of its possessions, and (B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.” In addition, 26 U.S.C. sec. 2055(a)(4) provides that bequests, legacies, devises and transfers “to or for the use of any veterans’ organization incorporated by Act of Congress, or of its departments or local chapters or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual. . . .” are not subject to the Federal estate tax.

<sup>7</sup> Organizations are exempt from Federal corporate and certain other taxes if they are “[c]orporations[ or] any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation . . . and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” 26 U.S.C. sec. 501(c)(3).

There is no doubt that DAV's activities of service to wounded and disabled veterans would enable it to qualify as a public charity, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. To achieve that designation, the organization needs to make application to the Internal Revenue Service. The application requires that certain language be included in the "organizing document," which in our case is the Federal charter.<sup>8</sup>

Specifically, the requested amendments make explicit DAV's exclusively charitable purpose, explain the educational component of its mission and mandate the assignment of its assets to the Department of Veterans Affairs in the event of dissolution. Inclusion of these provisions in the charter will simplify greatly our conversion to (c)(3) status.<sup>9</sup>

### **Hearings**

The Committee on the Judiciary held no hearings on H.R. 1755.

### **Committee Consideration**

On September 17, 2015, the Committee met in open session and ordered the bill H.R. 1755 favorably reported without amendment, by a 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. 1755.

### **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.

<sup>8</sup>Part III of the Internal Revenue Service's Form 1023 (Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code) states that "[s]ection 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. Location of Purpose Clause (Page, Article, and Paragraph): \_\_\_\_\_" It also states that "[s]ection 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c. If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). \_\_\_\_\_"

<sup>9</sup>Letter from J. Marc Burgess, National Adjutant, DAV, to the Judiciary Committee, July 10, 2015.

### **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. 1755, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 23, 2015.*

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. 1755, a bill to amend title 36, United States Code, to make certain improvements in the congressional charter of the Disabled American Veterans.

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,

KEITH HALL,  
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

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### **H.R. 1755—a bill to amend title 36, United States Code, to make certain improvements in the congressional charter of the Disabled American Veterans.**

As ordered reported by the House Committee on the Judiciary  
on September 17, 2015.

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H.R. 1755 would amend the charter of the Disabled American Veterans (DAV) to specify that DAV is organized for charitable and educational purposes, and to ensure that upon dissolution of the organization any remaining assets would be transferred to the Department of Veterans Affairs. Those changes could allow DAV to qualify as a “public charity” under the Internal Revenue Code, and thus might lead to an increase in tax deductible donations. However, because DAV is already exempt from Federal taxation and qualified to receive deductible contributions as a “war veterans” organization, CBO and the staff of the Joint Committee on Taxation expect that such changes would have a negligible effect on Federal revenues.

Enacting H.R. 1755 would not affect direct spending, but would have a negligible effect on revenues; therefore, pay-as-you-go procedures apply. CBO estimates that enacting H.R. 1755 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2026.

H.R. 1755 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 Dwayne M. Wright. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

### **Duplication of Federal Programs**

No provision of H.R. 1755 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. 1755 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. 1755 makes changes to the Federal charter of Disabled American Veterans to better reflect its mission.

### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1755 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. Congressional Charter of Disabled American Veterans*

Subsection (a) amends 36 U.S.C. section 50302 by stating that DAV is organized exclusively for charitable and educational purposes and by adding two new purposes of the organization—1) to educate the public about the sacrifices and needs of disabled veterans, and 2) to educate disabled veterans about the benefits and resources available to them.

Subsection (b) adds section 50309 to title 36 providing that on dissolution or final liquidation of DAV, any assets remaining after the discharge or satisfactory provision for the discharge of all liabil-

ities shall be transferred to the Secretary of Veterans Affairs for the care of disabled veterans.

### **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, and existing law in which no change is proposed is shown in roman):

## **TITLE 36, UNITED STATES CODE**

\* \* \* \* \*

### **SUBTITLE II—PATRIOTIC AND NATIONAL ORGANIZATIONS**

\* \* \* \* \*

### **PART B—ORGANIZATIONS**

\* \* \* \* \*

### **CHAPTER 503—DISABLED AMERICAN VETERANS**

\* \* \* \* \*

#### **§ 50302. Purposes**

**[The purposes of the corporation are]** *The corporation is organized exclusively for charitable and educational purposes. The purposes of the corporation shall include—*

(1) to uphold and maintain the Constitution and laws of the United States;

(2) to realize the true American ideals and aims for which those eligible to membership fought;

(3) to advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans;

(4) to cooperate with the Department of Veterans Affairs and all other public and private agencies devoted to the cause of improving and advancing the condition, health, and interests of all wounded, injured, and disabled veterans;

(5) to stimulate a feeling of mutual devotion, helpfulness, and comradeship among all wounded, injured, and disabled veterans;

(6) to serve our comrades, our communities, and our country; **[and]**

(7) *to educate the public about the sacrifices and needs of disabled veterans;*

(8) *to educate disabled veterans about the benefits and resources available to them; and*

[(7)] (9) to encourage in all people that spirit of understanding which will guard against future wars.

\* \* \* \* \*

**§ 50309. Dissolution**

*On dissolution or final liquidation of the corporation, any assets remaining after the discharge or satisfactory provision for the discharge of all liabilities shall be transferred to the Secretary of Veterans Affairs for the care of disabled veterans.*

\* \* \* \* \*

