

AMENDING TITLE 38, UNITED STATES CODE, TO DEEM CERTAIN SERVICE  
 IN THE RESERVE COMPONENTS AS ACTIVE SERVICE FOR PURPOSES OF  
 LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS

SEPTEMBER 28, 2010.—Committed to the Committee of the Whole House on the  
 State of the Union and ordered to be printed

Mr. FILNER, from the Committee on Veterans' Affairs,  
 submitted the following

R E P O R T

[To accompany H.R. 3787]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the  
 bill (H.R. 3787) to amend title 38, United States Code, to deem cer-  
 tain service in the Reserve components as active service for pur-  
 poses of laws administered by the Secretary of Veterans Affairs,  
 having considered the same, report favorably thereon with amend-  
 ments and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment .....	2
Purpose and Summary .....	2
Background and Need for Legislation .....	2
Hearings .....	3
Subcommittee Consideration .....	3
Committee Consideration .....	4
Committee Votes .....	4
Committee Oversight Findings .....	4
Statement of General Performance Goals and Objectives .....	4
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	4
Earmarks and Tax and Tariff Benefits .....	4
Committee Cost Estimate .....	4
Congressional Budget Office Estimate .....	4
Federal Mandates Statement .....	5
Advisory Committee Statement .....	5
Constitutional Authority Statement .....	5
Applicability to Legislative Branch .....	6
Section-by-Section Analysis of the Legislation .....	6
Changes in Existing Law Made by the Bill as Reported .....	6

## AMENDMENT

The amendments are as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. PROVISION OF VETERANS STATUS UNDER LAW BY HONORING CERTAIN MEMBERS THE RESERVE COMPONENTS AS VETERANS.**

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 107 the following new section:

**“§ 107A. Honoring as veterans certain persons who performed service in the reserve components**

“Any person who is entitled under chapter 1223 of title 10 to retired pay for non-regular service or, but for age, would be entitled under such chapter to retired pay for nonregular service shall be honored as a veteran but shall not be entitled to any benefit solely by reason of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

“107A. Honoring as veterans certain persons who performed service in the reserve components.”.

Amend the title so as to read:

A bill to amend title 38, United States Code, to recognize the service in the reserve components of certain persons by honoring them with status as veterans under law.

## PURPOSE AND SUMMARY

H.R. 3787 was introduced on October 8, 2009, by Representative Timothy J. Walz of Minnesota. H.R. 3787, as amended, would create a new section under title 38, United States Code, to allow persons who, except for age, are entitled to retired pay for non-regular service to be acknowledged as veterans for honorary purposes. The bill would extend the honorary veteran status to National Guard and Reserve members who qualify for retirement after 20 years, but were never activated long enough to meet current statutory requirements in order to attain veteran status. While providing honorary status, the bill would specifically exclude these individuals from any entitlements under title 38, United States Code, based on this Act unless already specified under current law.

## BACKGROUND AND NEED FOR LEGISLATION

The National Guard and Reserve perform an invaluable role and are an important component of our overall force structure. They support the active duty component by responding in times of national emergency, stand ready to be called to active duty service and to deploy to overseas missions in times of need.

Currently, if members of the National Guard and Reserve have not served a qualifying period of active duty service, they are not considered to be veterans under Federal law.

The Committee, while recognizing that it is responsible for overseeing the laws relating to the provision of Federal benefits for veterans, believes that steadfast service of 20 years in the National Guard and Reserve, even absent qualifying Federal service, deserves recognition of the service and sacrifice of these men and women. This legislation is intended to recognize that, like their counterparts in the active duty component, Guard and Reserve members volunteered to serve their country and were available for activation at any time. The Committee believes that providing honorary recognition to these individuals is appropriate.

The sponsor of this legislation, Representative Walz of Minnesota, stated eloquently that while it may not seem important to be honored as a veteran, for those who wore the same uniform, were subject to the same code of military justice, received the same training and spent 20 years or more being liable for call-up, this lack of honorary recognition represents a gross injustice.

H.R. 3787, as amended, confers honorary veteran status on those individuals who are entitled under chapter 1223 of title 10, United States Code, to retired pay for nonregular services or who would be entitled to retired pay but for age. This bill does not extend any benefits to these individuals that are not already recognized in current law. This bill does not affect in any way over a century of doctrine regarding the legal status of National Guard and Reserve service while providing honorary recognition to certain men and women by allowing qualified individuals to proudly call themselves veterans, to participate in official Veterans Day events, or offering a hand salute during the playing of the National Anthem.

#### HEARINGS

On July 1, 2010, the Subcommittee on Disability Assistance and Memorial Affairs held a legislative hearing on several bills introduced during the 111th Congress, including H.R. 3787. The following witnesses testified: The Honorable Timothy J. Walz of Minnesota; The Honorable Alcee Hastings of Florida; The Honorable John H. Adler, of New Jersey; The Honorable Joe Donnelly of Indiana; Mr. Richard F. Weidman, Executive Director for Policy and Government Affairs, Vietnam Veterans of America; Mr. John L. Wilson, Assistant National Legislative Director, Disabled American Veterans; Barry A. Searle, Director, Veterans Affairs and Rehabilitation Commission, The American Legion; Mr. Eric A. Hilleman, Director, National Legislative Service, Veterans of Foreign Wars of the United States; and Mr. Thomas Pamperin, Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration, U.S. Department of Veterans Affairs accompanied by Mr. Richard J. Hipolit, Assistant General Counsel, Office of General Counsel, U.S. Department of Veterans Affairs. Those submitting statements for the record included: Mr. Michael P. Cline, Executive Director, Enlisted Association of the National Guard of the United States; Captain Ike Puzon, USN (Ret.), Director of Government Affairs—Legislation, Association of the United States Navy; the Military Officers Association of America; Peter J. Duffy, Deputy Director of Legislation, National Guard Association of the United States; the Reserve Officers Association of the United States; the Reserve Enlisted Association; and Master Sergeant Larry D. Madison, USAF (Ret.), Legislative Director, Washington Office, The Retired Enlisted Association.

#### SUBCOMMITTEE CONSIDERATION

On July 27, 2010, the Subcommittee on Disability Assistance and Memorial Affairs met in open markup session and ordered favorably forwarded to the full Committee H.R. 3787, as amended, by voice vote. During consideration of the bill the following amendment was considered:

An amendment in the nature of a substitute by Mrs. Halvorson of Illinois to give members of the Guard and Reserve the honor of calling themselves veterans was agreed to by voice vote.

#### COMMITTEE CONSIDERATION

On September 15, 2010, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 3787, as amended, reported favorably to the House of Representatives, by voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 3787 reported to the House. A motion by Mr. Buyer of Indiana to order H.R. 3787, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3787 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 3787 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3787

provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 27, 2010.*

Hon. BOB FILNER,  
*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. 3787, a bill to amend title 38, United States Code, to recognize the service in the reserve components of certain persons by honoring them with status as veterans under law.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 3787—A bill to amend title 38, United States Code, to recognize the service in the reserve components of certain persons by honoring them with status as veterans under law*

H.R. 3787 would grant the status of honorary veteran to certain retired reservists. Individuals who served at least 20 years in the reserves, are under age 60, and were never called to active duty would be eligible for this honorary status. Under H.R. 3787, those honorary veterans would not be eligible for additional benefits from the Department of Veterans Affairs based on this new status. Thus, CBO estimates that the bill would have no budgetary impact.

Enacting H.R. 3787 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3787 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.

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

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3787 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3787.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. 3787 is provided by Article I, section 8 of the Constitution of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Provision of veterans status under law by honoring certain members of the reserve components as veterans*

This section would amend title 38, United States Code, by creating a new section honoring as veterans, while specifically providing no additional benefits, certain persons who performed service in the reserve component.

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

**PART I—GENERAL PROVISIONS**

\* \* \* \* \*

**CHAPTER 1—GENERAL**

Sec.

101. Definitions.

\* \* \* \* \*

107A. *Honoring as veterans certain persons who performed service in the reserve components.*

\* \* \* \* \*

**§ 107A. *Honoring as veterans certain persons who performed service in the reserve components***

*Any person who is entitled under chapter 1223 of title 10 to retired pay for nonregular service or, but for age, would be entitled under such chapter to retired pay for nonregular service shall be honored as a veteran but shall not be entitled to any benefit by reason of this section.*

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