

Calendar No. 288

117TH CONGRESS
2D SESSION

S. 2089

To amend title 38, United States Code, to ensure that grants provided by the Secretary of Veterans Affairs for State veterans' cemeteries do not restrict States from authorizing the interment of certain deceased members of the reserve components of the Armed Forces in such cemeteries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2021

Mrs. SHAHEEN (for herself, Ms. HASSAN, Mr. HOEVEN, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

MARCH 1, 2022

Reported by Mr. TESTER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend title 38, United States Code, to ensure that grants provided by the Secretary of Veterans Affairs for State veterans' cemeteries do not restrict States from authorizing the interment of certain deceased members of the reserve components of the Armed Forces in such cemeteries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Burial Equity for
3 Guards and Reserves Act of 2021”.

4 **SEC. 2. PROHIBITIONS ON RESTRICTING INTERMENT OF**
5 **CERTAIN INDIVIDUALS IN CERTAIN STATE**
6 **VETERANS’ CEMETERIES.**

7 (a) GRANTS.—Section 2408 of title 38, United States
8 Code, as amended by the Johnny Isakson and David P.
9 Roe, M.D. Veterans Health Care and Benefits Improve-
10 ment Act of 2020 (Public Law 116–315), is further
11 amended—

12 (1) in subsection (d)(2), by striking “The Sec-
13 retary may” and inserting “Except as provided in
14 subsection (i), the Secretary may”; and

15 (2) by adding at the end the following new sub-
16 sections:

17 “(i)(1) The Secretary may not establish a condition
18 for a grant under this section that restricts the ability of
19 a State receiving such a grant to inter in a veterans’ ceme-
20 tery owned by that State any individual described in para-
21 graph (2) solely by reason of the ineligibility of such indi-
22 vidual for burial in an open national cemetery under the
23 control of the National Cemetery Administration under
24 section 2402(a) of this title.

25 “(2) An individual described in this paragraph is the
26 following:

1 “(A) Any member of a reserve component of
2 the Armed Forces whose service was terminated
3 under honorable conditions.

4 “(B) Any member of the Army National Guard
5 or the Air National Guard whose service was termi-
6 nated under honorable conditions.

7 “(C) Any member of the Reserve Officers’
8 Training Corps of the Army, Navy, or Air Force
9 whose death occurs under honorable conditions while
10 a member of the Reserve Officers’ Training Corps of
11 the Army, Navy, or Air Force.

12 “(D) Any spouse of any member described in
13 subparagraphs (A) through (C).

14 “(E) Any minor child or unmarried adult child
15 (as such terms are defined in section 2402(a) of this
16 title) of any member described in subparagraphs (A)
17 through (C).

18 “(j) The Secretary may not deny an application for
19 a grant under this section solely on the basis that the
20 State receiving such grant may use funds from such grant
21 to expand, improve, operate, or maintain a veterans’ ceme-
22 tery to allow for the interment of individuals described in
23 subsection (i)(2).”.

24 (b) PROHIBITION ON ENFORCING CERTAIN CONDI-
25 TIONS ON GRANTS FOR STATE VETERANS’ CEME-

1 ~~TERIES.—The Secretary of Veterans Affairs may not en-~~
 2 ~~force a condition on a grant described in subsection (i)(1)~~
 3 ~~of section 2408 of title 38, United States Code, as added~~
 4 ~~by subsection (a), that was established before the date of~~
 5 ~~the enactment of this Act.~~

6 ~~(c) PLOT ALLOWANCES.—Section 2303(b)(1) of title~~
 7 ~~38, United States Code, is amended—~~

8 ~~(1) by striking “and (ii) members” and insert-~~
 9 ~~ing “(ii) members”; and~~

10 ~~(2) by striking “other than dishonorable, and”~~
 11 ~~and inserting “other than dishonorable, or (iii) de-~~
 12 ~~scribed in section 2408(i)(2) of this title”.~~

13 ***SECTION 1. SHORT TITLE.***

14 *This Act may be cited as the “Burial Equity for*
 15 *Guards and Reserves Act of 2021”.*

16 ***SEC. 2. PROHIBITIONS ON RESTRICTING INTERMENT OF***
 17 ***CERTAIN INDIVIDUALS IN CERTAIN STATE***
 18 ***VETERANS’ CEMETERIES.***

19 ~~(a) GRANTS.—Section 2408 of title 38, United States~~
 20 ~~Code, is amended—~~

21 ~~(1) in subsection (d)(2), by striking “The Sec-~~
 22 ~~retary may” and inserting “Except as provided in~~
 23 ~~subsection (i), the Secretary may”;~~

24 ~~(2) by redesignating subsection (i) as subsection~~
 25 ~~(k); and~~

1 (3) by inserting after subsection (h) the following
2 new subsections:

3 “(i)(1) The Secretary may not establish a condition
4 for a grant under this section that restricts the ability of
5 a State receiving such a grant to inter in a veterans’ ceme-
6 tery owned by that State any individual described in para-
7 graph (2) solely by reason of the ineligibility of such indi-
8 vidual for burial in an open national cemetery under the
9 control of the National Cemetery Administration under sec-
10 tion 2402(a) of this title.

11 “(2) An individual described in this paragraph is the
12 following:

13 “(A) Any member of a reserve component of the
14 Armed Forces who was discharged or released from
15 service under conditions other than dishonorable or
16 whose death occurs under conditions other than dis-
17 honorable while a member of such a reserve compo-
18 nent.

19 “(B) Any member of the Army National Guard
20 or the Air National Guard who was discharged or re-
21 leased from service under conditions other than dis-
22 honorable or whose death occurs under conditions
23 other than dishonorable while a member of the Army
24 National Guard or the Air National Guard.

1 “(C) *Any member of the Reserve Officers’ Train-*
 2 *ing Corps of the Army, Navy, or Air Force whose*
 3 *death occurs under conditions other than dishonorable*
 4 *while a member of the Reserve Officers’ Training*
 5 *Corps of the Army, Navy, or Air Force.*

6 “(D) *Any spouse of any member described in*
 7 *subparagraphs (A) through (C).*

8 “(E) *Any minor child or unmarried adult child*
 9 *(as such terms are defined in section 2402(a) of this*
 10 *title) of any member described in subparagraphs (A)*
 11 *through (C).*

12 “(j) *The Secretary may not deny an application for*
 13 *a grant under this section solely on the basis that the State*
 14 *receiving such grant may use funds from such grant to ex-*
 15 *pand, improve, operate, or maintain a veterans’ cemetery*
 16 *in which interment of individuals described in subsection*
 17 *(i)(2) is allowed.”.*

18 (b) *PROHIBITION ON ENFORCING CERTAIN CONDI-*
 19 *TIONS ON GRANTS FOR STATE VETERANS’ CEMETERIES.—*
 20 *The Secretary of Veterans Affairs may not enforce a condi-*
 21 *tion on a grant described in subsection (i)(1) of section 2408*
 22 *of title 38, United States Code, as added by subsection (a),*
 23 *that was established before the date of the enactment of this*
 24 *Act.*

1 (c) *PLOT ALLOWANCES*.—Section 2303 of title 38,
2 *United States Code*, is amended—

3 (1) *in subsection (b)*—

4 (A) *by amending paragraph (1) to read as*
5 *follows:*

6 “(1) *the Secretary shall pay to the relevant*
7 *State, agency, political subdivision, or tribal organi-*
8 *zation, as the case may be, the sum of \$700 (as in-*
9 *creased from time to time under subsection (c)) as a*
10 *plot or interment allowance for such veteran if the*
11 *veteran is buried (without charge for the cost of a plot*
12 *or interment) in a cemetery, or a section of a ceme-*
13 *tery, that—*

14 “(A) *is used solely for the interment of per-*
15 *sons who are—*

16 “(i) *eligible for burial in a national*
17 *cemetery;*

18 “(ii) *members of a reserve component*
19 *of the Armed Forces not otherwise eligible*
20 *for such burial or former members of such*
21 *a reserve component not otherwise eligible*
22 *for such burial who are discharged or re-*
23 *leased from service under conditions other*
24 *than dishonorable; or*

1 “(iii) described in section 2408(i)(2) of
2 this title; and

3 “(B) is—

4 “(i) owned by a State or by an agency
5 or political subdivision of a State; or

6 “(ii) on trust land owned by, or held
7 in trust for, a tribal organization.”; and

8 (B) in paragraph (2), by inserting “tribal
9 organization,” after “of a State,”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(e) In this section, the terms ‘tribal organization’ and
13 ‘trust land’ have the meanings given those terms in section
14 3765 of this title.”.

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