

118TH CONGRESS
2D SESSION

S. 4100

To amend title 38, United States Code, to establish the National Cemeteries Foundation to support the educational outreach activities of the Veterans Legacy Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2024

Mr. MORAN (for himself and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to establish the National Cemeteries Foundation to support the educational outreach activities of the Veterans Legacy Program, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Honoring Veterans’ Legacies and Burial Benefits En-
6 hancements Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SUPPORTING THE VETERANS LEGACY PROGRAM

Sec. 101. National Cemeteries Foundation to support educational outreach activities of the Veterans Legacy Program.

TITLE II—ENSURING DIGNIFIED BURIALS FOR VETERANS

Sec. 201. Headstones and markers for groups of individuals buried in group interments.

Sec. 202. Requirement for use of dignified burial containers for interments in national cemeteries.

TITLE III—BURIAL BENEFITS ENHANCEMENTS

Sec. 301. Expansion of eligibility for government-furnished headstone, marker, or medallion for medal of honor recipients.

Sec. 302. Modification of eligibility for burial benefits relating to other than dishonorable service for deaths in active service.

Sec. 303. Permanent authority for burial, memorial headstones, and markers of spouses and dependent children who predecease veterans and active duty members of the Armed Forces.

1 **TITLE I—SUPPORTING THE**
2 **VETERANS LEGACY PROGRAM**

3 **SEC. 101. NATIONAL CEMETERIES FOUNDATION TO SUP-**
4 **PORT EDUCATIONAL OUTREACH ACTIVITIES**
5 **OF THE VETERANS LEGACY PROGRAM.**

6 (a) IN GENERAL.—Chapter 24 of title 38, United
7 States Code, is amended by adding at the end the fol-
8 lowing new section:

9 **“§ 2415. National Cemeteries Foundation**

10 “(a) ESTABLISHMENT.—

11 “(1) IN GENERAL.—There is established the
12 National Cemeteries Foundation (in this section re-
13 ferred to as the ‘Foundation’).

1 “(2) NATURE OF CORPORATION.—The Founda-
2 tion is a charitable and nonprofit corporation and is
3 not an agency or establishment of the United States.

4 “(3) NONPROFIT STATUS.—If by the end of the
5 four-year period beginning on the date of the enact-
6 ment of the Honoring Veterans’ Legacies and Burial
7 Benefits Enhancements Act the Foundation is not
8 treated as an organization described in section
9 501(c)(3) of the Internal Revenue Code of 1986 and
10 exempt from taxation under section 501(a) of such
11 Code, the Secretary shall dissolve the Foundation.

12 “(b) PURPOSES.—The purposes of the Foundation
13 are to provide a flexible funding mechanism—

14 “(1) for educational outreach activities of the
15 Veterans Legacy Program that are approved by the
16 Under Secretary for Memorial Affairs at one or
17 more national cemeteries under the control of the
18 National Cemetery Administration; and

19 “(2) to facilitate functions related to the con-
20 duct of such activities, approved as described in
21 paragraph (1).

22 “(c) BOARD OF DIRECTORS; EXECUTIVE DIREC-
23 TOR.—

24 “(1) BOARD OF DIRECTORS.—

1 “(A) IN GENERAL.—The Secretary shall
2 provide for the appointment of a board of direc-
3 tors for the Foundation.

4 “(B) MEMBERSHIP.—The board of direc-
5 tors of the Foundation shall include at least one
6 member representing the National Cemetery
7 Administration.

8 “(C) LIMITATION.—An individual ap-
9 pointed to the board of directors of the Founda-
10 tion may not be affiliated with or employed by
11 any entity that is a source of funding for re-
12 search or education by the Department unless
13 that source of funding is a governmental entity
14 or an entity the income of which is exempt from
15 taxation under the Internal Revenue Code of
16 1986.

17 “(D) APPOINTMENT.—Any member of the
18 board of directors of the Foundation rep-
19 resenting the National Cemetery Administration
20 shall be appointed after consultation with the
21 Under Secretary for Memorial Affairs.

22 “(2) EXECUTIVE DIRECTOR.—

23 “(A) IN GENERAL.—The Foundation shall
24 have an executive director who shall be ap-
25 pointed by the board of directors of the Foun-

1 dation with the concurrence of the Under Sec-
2 retary for Memorial Affairs.

3 “(B) RESPONSIBILITIES AND DUTIES.—
4 The executive director of the Foundation
5 shall—

6 “(i) be responsible for the operations
7 of the Foundation; and

8 “(ii) have such specific duties and re-
9 sponsibilities as the board of directors of
10 the Foundation may prescribe.

11 “(d) GENERAL AUTHORITIES.—

12 “(1) IN GENERAL.—The Foundation may—

13 “(A) accept, administer, retain, and spend
14 funds derived from gifts, contributions, grants,
15 fees, reimbursements, and bequests from indi-
16 viduals and public or private entities to the Vet-
17 erans Legacy Program;

18 “(B) retain fees for the services provided
19 in administering funds for the Veterans Legacy
20 Program; and

21 “(C) reimburse, from funds accepted on
22 behalf of the Veterans Legacy Program,
23 amounts to the applicable appropriation account
24 of the Department for the Office of General
25 Counsel for any expenses of that Office in pro-

1 viding legal services to the National Cemetery
2 Administration required to implement this sec-
3 tion.

4 “(2) CONTRACTS, GRANTS, AND OTHER AGREE-
5 MENTS.—Any contract, grant, or other agreement
6 for the carrying out of an educational outreach ac-
7 tivity using funds described in paragraph (1)(A)
8 shall be between the Foundation and the contractor,
9 grant recipient, or other party, as the case may be.

10 “(3) AVAILABILITY OF REIMBURSED
11 AMOUNTS.—Amounts reimbursed to the Office of
12 General Counsel under paragraph (1)(C) shall—

13 “(A) be available for use by the Office of
14 the General Counsel only for staff and training,
15 and related travel, for the provision of legal
16 services under this section; and

17 “(B) remain available for such use without
18 fiscal year limitation.

19 “(e) TRANSFER AND ADMINISTRATION OF FUNDS.—
20 Any funds received by the Secretary for the conduct of
21 educational outreach activities of the Veterans Legacy
22 Program, other than funds appropriated to the Depart-
23 ment, may be transferred to and administered by the
24 Foundation.

1 “(f) APPROVAL OF EDUCATIONAL OUTREACH AC-
2 TIVITIES.—The Foundation may not spend funds for an
3 educational outreach activity of the Veterans Legacy Pro-
4 gram unless the activity is approved in accordance with
5 procedures prescribed by the Under Secretary for Memo-
6 rial Affairs for educational outreach activities carried out
7 with funds donated or otherwise provided to the Founda-
8 tion for such activities.

9 “(g) POLICIES AND PROCEDURES.—

10 “(1) IN GENERAL.—The Under Secretary for
11 Memorial Affairs shall prescribe policies and proce-
12 dures to guide the spending of funds in support of
13 the Veterans Legacy Program by the Foundation.

14 “(2) REQUIREMENTS.—The policies and proce-
15 dures described in paragraph (1) shall be consistent
16 with—

17 “(A) the purpose of the Foundation as a
18 flexible funding mechanism; and

19 “(B) Federal and State law and regula-
20 tions, executive orders, circulars, policies of the
21 Department, and directives that apply generally
22 to the receipt and expenditure of funds by orga-
23 nizations described in section 501(c)(3) of the
24 Internal Revenue Code of 1986 and exempt

1 from taxation under section 501(a) of such
2 Code.

3 “(h) ACCOUNTABILITY AND OVERSIGHT.—

4 “(1) RECORDS AVAILABLE TO SECRETARY.—
5 The records of the Foundation shall be available to
6 the Secretary.

7 “(2) INSPECTOR GENERAL.—For the purposes
8 of sections 404(a)(1) and 406(a)(1) of title 5, the
9 programs and operations of the Foundation shall be
10 considered to be programs and operations of the De-
11 partment with respect to which the Inspector Gen-
12 eral of the Department has responsibilities under
13 chapter 4 of title 5.

14 “(3) COMPTROLLER GENERAL.—The Founda-
15 tion shall be considered an agency for the purposes
16 of section 716 of title 31 (relating to availability of
17 information and inspection of records by the Comp-
18 troller General).

19 “(4) CONFLICT OF INTEREST POLICY.—Each
20 director, officer, and employee of the Foundation
21 shall be subject to a conflict of interest policy adopt-
22 ed by the Foundation.

23 “(5) ANNUAL REPORT BY FOUNDATION.—

24 “(A) IN GENERAL.—Each year, the Foun-
25 dation shall submit to the Secretary a report.

1 “(B) ELEMENTS.—Each report required
2 by subparagraph (A) shall include the following:

3 “(i) A detailed statement of the oper-
4 ations, activities, and accomplishments of
5 the Foundation during the year in which
6 the report is submitted.

7 “(ii) The most recent audit of the
8 Foundation under paragraph (6).

9 “(iii) The most recent Internal Rev-
10 enue Service Form 990 ‘Return of Organi-
11 zation Exempt from Income Tax’ or equiv-
12 alent and the applicable schedules under
13 such form.

14 “(6) AUDITS OF FOUNDATION.—

15 “(A) REVENUES IN EXCESS OF \$500,000.—
16 If revenues of the Foundation exceed \$500,000
17 in any year, the Foundation shall obtain an
18 audit of the Foundation for that year.

19 “(B) REVENUES BETWEEN \$100,000 AND
20 \$500,000.—If revenues of the Foundation are be-
21 tween \$100,000 and \$500,000 each year for
22 three consecutive years, the Foundation shall
23 obtain an audit of the Foundation for those
24 years.

1 “(C) INDEPENDENT AUDITOR.—Any audit
2 under this paragraph shall be performed by an
3 independent auditor.

4 “(7) ANNUAL REPORT BY SECRETARY.—

5 “(A) IN GENERAL.—Each year, the Sec-
6 retary shall submit to the Committee on Vet-
7 erans’ Affairs of the Senate and the Committee
8 on Veterans’ Affairs of the House of Represent-
9 atives a report on the Foundation.

10 “(B) ELEMENTS.—Each report required
11 by subparagraph (A) shall set forth the fol-
12 lowing information:

13 “(i) The location of educational out-
14 reach activities funded by the Foundation.

15 “(ii) The amount received by the
16 Foundation during the previous year, in-
17 cluding—

18 “(I) the total amount received;

19 “(II) the amount received from
20 governmental entities for research and
21 the amount received from govern-
22 mental entities for education;

23 “(III) the amount received from
24 all other sources for research and the

1 amount received from all other
2 sources for education; and

3 “(IV) if an amount received from
4 a source referred to in subclause (III)
5 exceeded \$25,000, information that
6 identifies the source.

7 “(iii) The amount expended by the
8 Foundation during the year for travel con-
9 ducted in conjunction with research and
10 the amount expended for travel conducted
11 in conjunction with education.

12 “(i) DEFINITIONS.—In this section:

13 “(1) EDUCATIONAL OUTREACH ACTIVITY.—The
14 term ‘educational outreach activity’ means any activ-
15 ity that is part of a collaborative effort involving
16 universities, schools, teachers, professors, students of
17 all levels, and nonprofit organizations—

18 “(A) to research veterans interred in na-
19 tional cemeteries under the control of the Na-
20 tional Cemetery Administration; and

21 “(B) to memorialize those veterans by
22 sharing their stories of service and sacrifice to
23 the United States.

24 “(2) VETERANS LEGACY PROGRAM.—The term
25 ‘Veterans Legacy Program’ has the meaning given

1 that term in section 1(d) of Public Law 116–107
2 (38 U.S.C. 2400 note).”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 24 of title 38, United States
5 Code, is amended by adding at the end the following new
6 item:

“2415. National Cemeteries Foundation.”.

7 **TITLE II—ENSURING DIGNIFIED**
8 **BURIALS FOR VETERANS**

9 **SEC. 201. HEADSTONES AND MARKERS FOR GROUPS OF IN-**
10 **DIVIDUALS BURIED IN GROUP INTERMENTS.**

11 Section 2306 of title 38, United States Code, is
12 amended—

13 (1) by redesignating subsection (k) as sub-
14 section (l); and

15 (2) by inserting after subsection (j) the fol-
16 lowing new subsection (k):

17 “(k) In lieu of a headstone or marker for an indi-
18 vidual under this section, the Secretary may furnish a sin-
19 gle appropriate headstone or marker for a group of indi-
20 viduals buried in a group interment if each individual of
21 such group is eligible for a headstone or marker furnished
22 under this section.”.

1 **SEC. 202. REQUIREMENT FOR USE OF DIGNIFIED BURIAL**
 2 **CONTAINERS FOR INTERMENTS IN NATIONAL**
 3 **CEMETERIES.**

4 Section 2404 of title 38, United States Code, is
 5 amended by adding at the end the following new sub-
 6 section:

7 “(j) The Secretary may not accept a cardboard con-
 8 tainer for the interment of the unclaimed remains of a
 9 veteran in a national cemetery unless evidence is provided
 10 to the Secretary that the veteran or a member of the vet-
 11 eran’s family previously expressed the desire for the use
 12 of such a container.”.

13 **TITLE III—BURIAL BENEFITS**
 14 **ENHANCEMENTS**

15 **SEC. 301. EXPANSION OF ELIGIBILITY FOR GOVERNMENT-**
 16 **FURNISHED HEADSTONE, MARKER, OR ME-**
 17 **DALLION FOR MEDAL OF HONOR RECIPI-**
 18 **ENTS.**

19 Section 2306(d) of title 38, United States Code, is
 20 amended—

21 (1) in paragraph (4)(B)(i), by inserting “, ex-
 22 cept as provided in paragraph (5)” after “1917”;
 23 and

24 (2) in paragraph (5)(C)—
 25 (A) by striking clause (i); and

1 (B) by redesignating clauses (ii) and (iii)
2 as clauses (i) and (ii), respectively.

3 **SEC. 302. MODIFICATION OF ELIGIBILITY FOR BURIAL BEN-**
4 **EFITS RELATING TO OTHER THAN DISHON-**
5 **ORABLE SERVICE FOR DEATHS IN ACTIVE**
6 **SERVICE.**

7 (a) PERSONS ELIGIBLE FOR INTERMENT IN NA-
8 TIONAL CEMETERIES.—Section 2402(a)(1) of title 38,
9 United States Code, is amended by inserting “under con-
10 ditions other than dishonorable as shown by a statement
11 from a general court-martial convening authority” after
12 “space service”.

13 (b) HEADSTONES, MARKERS, AND BURIAL RECEP-
14 TACLES.—Section 2306 of title 38, United States Code,
15 is amended—

16 (1) in subsection (b)(4)(A), by inserting “under
17 conditions other than dishonorable as shown by a
18 statement from a general court-martial convening
19 authority” after “space service”; and

20 (2) in subsection (g)(2), by inserting “under
21 conditions other than dishonorable as shown by a
22 statement from a general court-martial convening
23 authority” after “space service”.

24 (c) FLAGS.—Section 2301(d) of title 38, United
25 States Code, is amended by inserting “under conditions

1 other than dishonorable, as shown by a statement from
2 a general court-martial convening authority,” after “space
3 service”.

4 **SEC. 303. PERMANENT AUTHORITY FOR BURIAL, MEMO-**
5 **RIAL HEADSTONES, AND MARKERS OF**
6 **SPOUSES AND DEPENDENT CHILDREN WHO**
7 **PREDECEASE VETERANS AND ACTIVE DUTY**
8 **MEMBERS OF THE ARMED FORCES.**

9 (a) MEMORIAL HEADSTONES AND MARKERS.—Sec-
10 tion 2306(b)(2) of title 38, United States Code, is amend-
11 ed—

12 (1) in subparagraph (B), by striking “if such
13 death occurs before October 1, 2024”; and

14 (2) in subparagraph (C), by striking “if such
15 death occurs before October 1, 2024”.

16 (b) BURIAL.—Section 2402(a)(5) of title 38, United
17 States Code, is amended by striking “if such death occurs
18 before October 1, 2024”.

○