

AN ACT

ENTITLED, An Act to revise certain provisions relating to the Veterans Commission and to veterans' rights, benefits, and services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 33-16-1 be amended to read as follows:

33-16-1. For the purposes of this chapter, a veteran is a person who meets the provisions of § 33-17-1 and who was a legal resident of South Dakota at the time of entry into service or who, following discharge, has been a resident of this state for one year. However, a nonresident in this state is entitled to any benefits available in this state to a South Dakota resident under the same conditions.

Section 2. That § 33-16-2 be amended to read as follows:

33-16-2. The Division of Veterans Affairs of the Department of Military and Veterans Affairs shall aid in meeting the emergency needs of dependents of men and women in the armed services and shall represent the interest of veterans and their dependents in claims they have against the federal government or other agencies growing out of the service of those veterans.

Section 3. That § 33-16-4.1 be amended to read as follows:

33-16-4.1. The Veterans Commission shall be administered with the assistance of the Division of Veterans' Affairs and the director of the division, but shall retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined in § 1-32-1) otherwise vested in the commission and shall exercise those functions independently of the director of veterans affairs. The commission shall nominate the director of veterans affairs to be appointed pursuant to § 1-46-7.

Section 4. That § 33-16-6 be amended to read as follows:

33-16-6. Meetings of the Veterans' Commission shall be held on call of the chair, vice chair, director, or of any three of its members, but not less than two times in each calendar year.

Section 5. That § 33-16-7.1 be amended to read as follows:

33-16-7.1. The commission may promulgate rules, pursuant to chapter 1-26, to:

- (1) Provide procedures and standards for division personnel to act as agents for veterans pursuant to § 33-16-14;
- (2) Provide procedures to maintain records to protect the rights of disabled veterans and their dependents pursuant to § 33-16-16;
- (3) Provide procedures and standards for cooperation and administration of burial of veterans pursuant to § 33-16-17;
- (4) Provide procedures and requirements to assist in securing veterans' benefits and to train county and tribal veterans service officers to provide such assistance pursuant to § 33-16-18; and
- (5) Provide procedures for investigations pursuant to § 33-16-22.

Section 6. That § 33-16-11 be amended to read as follows:

33-16-11. The director of the Division of Veterans Affairs shall, with the approval of the Department of Military and Veterans Affairs, establish and maintain a sufficient office and field force to carry out the provisions of this chapter, including representation at the United States Department of Veterans Affairs facilities in this state.

Section 7. That § 33-16-14 be amended to read as follows:

33-16-14. The Division of Veterans Affairs shall act as the agent of any veteran, National Guard or Reserve member, and any dependent of a veteran or member of the state having a claim against the United States arising from or connected with service in the armed forces. The division shall prosecute the claim without charge.

Section 8. That § 33-16-17 be amended to read as follows:

33-16-17. The Division of Veterans Affairs shall cooperate in the administration of laws relating

to burial of veterans and of other state laws for veterans' benefits.

Section 9. That § 33-16-18 be amended to read as follows:

33-16-18. The Division of Veterans Affairs shall cooperate with all national, state, county, municipal, and private social agencies in securing to veterans, National Guard or Reserve members, and their dependents the benefits provided by national, state, and county laws, municipal ordinances, or public or private social agencies. To that end, the division may hold schools of instruction for county and tribal veterans service officers, or call in for instruction individual county or tribal veterans service officers if, in the judgment of the Department of Military and Veterans Affairs, the giving of such instructions or holding of such schools is in the best interest of the work of the division. The division may pay the actual necessary expenses of any such county or tribal veterans service officer when attending such schools of instruction away from the officer's home county, out of the funds appropriated for the administration of the Division of Veterans Affairs. The expenses may be paid out only on duly itemized vouchers presented to the state auditor and approved by the director of the division.

Section 10. That § 33-16-19 be repealed.

Section 11. That § 33-16-20 be repealed.

Section 12. That § 33-16-27 be amended to read as follows:

33-16-27. Each county veterans' service officer shall be a veteran who has served in the armed forces of the United States and is a citizen of the United States.

Section 13. That § 33-17-1 be amended to read as follows:

33-17-1. For the purposes of all statutes relating to rights, privileges, exemptions, and benefits (except a state bonus) of veterans and their dependents, the term, veteran, means any person who:

- (1) Has served on continuous federalized active military duty for a period of at least ninety days for reasons other than training; and

- (2) Has been separated or discharged from such service honorably or under honorable conditions.

Section 14. That § 33-17-2 be amended to read as follows:

33-17-2. For purposes of all statutes relating to rights, privileges, exemptions, and benefits of wartime veterans and their dependents, the term, wartime veteran, means any veteran who has performed qualifying military service or any person who has performed qualifying military service and then been released to any National Guard or Reserve component of the armed forces of the United States. Qualifying military service is:

- (1) Active duty in the armed forces of the United States for one day or more during the period from April 6, 1917, to November 11, 1918, inclusive;
- (2) Active duty for one day or more during the period from July 28, 1914, to November 11, 1918, inclusive, performed by a citizen of the United States in the armed forces of any nation that was allied with the United States during any part of the period from April 6, 1917, to November 11, 1918, inclusive;
- (3) Active duty in the armed forces of the United States for one day or more during the period from December 7, 1941, to December 31, 1946, inclusive;
- (4) Active duty for one day or more during the period from September 1, 1939, to December 31, 1946, inclusive, performed by a citizen of the United States in the armed forces of any nation that was allied with the United States during any part of the period from December 7, 1941, to December 31, 1946, inclusive;
- (5) Active duty in the armed forces of the United States for one day or more during the period from June 25, 1950, to May 7, 1975, inclusive;
- (6) Active duty in the armed forces of the United States for one day or more during the period from August 2, 1990, until the end of hostilities as determined by the Legislature;

- (7) Active duty in the armed forces of the United States for one day or more in a military action for which the veteran earned an armed forces expeditionary medal or other United States campaign, expeditionary, or service medal awarded for participation outside the boundaries of the United States in combat operations against hostile forces; or
- (8) Active duty in the armed forces of the United States for one day or more if the veteran has established the existence of a service-connected disability.

Service on active duty by any Reserve or National Guard personnel for training may not be construed as service on active duty, unless the Veterans Commission determines, by rules promulgated pursuant to chapter 1-26, that such training involved the person in direct participation in or direct support of combat operations against a hostile force.

Section 15. That § 33-17-2.1 be repealed.

Section 16. That § 33-17-14 be amended to read as follows:

33-17-14. The provisions of subdivision 43-28-2(7) apply to certificates of discharge of all persons who are veterans as defined in § 33-17-1. The certificates shall be recorded without charge and certified copies shall be furnished to the persons named therein or their dependents without charge if requested for the purpose of presenting or prosecuting claims for compensation or pension. Otherwise, a discharge document recorded by the recorder or a designated official may be made available only to the veteran, the veteran's parents, the veteran's next of kin, the veteran's legal representative, a county veterans service officer, a veterans' organization service officer, the Department of Military and Veterans Affairs, or the veteran's designee. Any person requesting a discharge document shall complete a form containing a statement specifying the person's eligibility to receive the document based upon this section. The Department of Military and Veterans Affairs shall provide such forms to each county register of deeds.

Section 17. That § 33-17-17.1 be amended to read as follows:

33-17-17.1. The Veterans' Bonus Board is abolished, and all its functions shall be administered by the Division of Veterans Affairs with oversight of the administrative rules by the Veterans Commission.

Section 18. That § 33-17-19 be amended to read as follows:

33-17-19. The director shall appoint such officers and employ such clerks, assistants, and other help as may be necessary, with utmost regard to existing veterans preference laws, and shall fix their bonds, salaries, and compensation.

Section 19. That § 33-18-22 be amended to read as follows:

33-18-22. Any wartime veteran as defined by § 33-17-2, who has an honorable discharge, who has maintained a residence in the state at any time in the five years preceding the date of the application, and who has no income in excess of one thousand dollars per year above the maximum income limitation for pension benefits as determined by the United States Department of Veterans Affairs, is eligible for admission to the State Veterans' Home. For the purposes of this section, a residence is a physical structure in which a person resides and the term does not include a post office box or address of another mail service purchased by the veteran. A war veteran who meets the residence requirements and has a rating of total disability as defined by the United States Department of Veterans Affairs for pension and compensation purposes is also eligible for admission. Membership status at the State Veterans' Home is not affected because of a medical leave of absence either in a United States Department of Veterans Affairs facility or other hospital. A veteran who has honorably served in a South Dakota regiment during a wartime period meets the residency requirement. Any veteran who is an enrolled member of a federally recognized Indian tribe located wholly or partially in the state meets the residency requirement.

Section 20. That § 33-19-1 be amended to read as follows:

33-19-1. Upon notice to the county or tribal veterans' service officer or field officer of the

Division of Veterans Affairs of the death within the county of a person entitled to burial benefits under this chapter, or at the officer's own initiative in a proper case, the veterans' service officer or field officer shall implement the provisions of this chapter in reference to the burial of the deceased.

Section 21. That § 33-19-2 be amended to read as follows:

33-19-2. Any veteran as defined by § 33-17-1 or the veteran's spouse shall be buried at the expense of the state if:

- (1) The veteran was a citizen of the United States and a resident of South Dakota for one year preceding the veteran's entrance into military service or preceding the veteran's death;
- (2) The veteran's estate or the estate of the veteran's spouse, whether living or deceased, or the immediate family or relatives of the veteran or the veteran's spouse are unable to defray the expenses of the veteran's or the veteran's spouse's funeral; and
- (3) The surviving spouse or relatives of the deceased veteran furnish an affidavit acceptable to the county or tribal veterans' service officer or field officer of the Division of Veterans Affairs that the estate of the decedent or of his or her surviving spouse is not sufficient to defray the funeral expenses.

Section 22. That § 33-19-6 be amended to read as follows:

33-19-6. All expenses incurred under the provisions of §§ 33-19-2 to 33-19-5, inclusive, shall be approved, allowed, and certified by the county or tribal veterans' service officer or field officer of the Division of Veterans Affairs upon forms provided by the Division of Veterans Affairs. The county or tribal veteran's service officer or field officer shall forward the forms to the Division of Veterans Affairs. The division shall certify and forward the forms to the state auditor.

Upon receipt of the certified forms, the state auditor shall draw a warrant on the state treasurer in favor of the person or persons entitled to the payment for the amount specified on the forms.

Section 23. That § 33-19-7 be amended to read as follows:

33-19-7. There is hereby annually appropriated out of the money in the state treasury a sum sufficient to carry out the provisions of §§ 33-19-2 to 33-19-6, inclusive.

Section 24. That § 33-19-9 be amended to read as follows:

33-19-9. Each board of county commissioners of each county of this state may, as soon as the money has been appropriated, purchase not more than ten burial plots and provide for the perpetual care of the plots.

The title to the burial plots is vested in the State of South Dakota, and permits for burial in the plots shall be issued by the county auditor of the respective county.

Section 25. That § 33-19-10 be amended to read as follows:

33-19-10. Any county may pay burial expense of persons described in § 33-19-8 for any such burial if the person dies in the county or has legal residence in the county at the time of death and if the relatives or friends of the deceased furnish affidavits acceptable to a circuit judge for the county that the estate of the decedent is not sufficient to defray the funeral expense.

Section 26. That chapter 33-19 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of § 44-11-9 or any other provision of law notwithstanding, if a funeral director, operator of a cemetery, or other individual involved with the funeral or burial of a veteran is in possession of a headstone, memorial headstone, or marker provided by the United States government in memory of the veteran, the director, operator, or individual may not retain possession of the headstone, memorial headstone, or marker pending payment for property associated with the funeral or burial or for services rendered.

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I certify that the attached Act
originated in the

SENATE as Bill No. 53

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 53
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State