

[Section 6 of Pub. L. 93-43 effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93-43, set out as an Effective Date note under section 2306 of this title.]

[The United States Soldiers' and Airmen's Home and the United States Naval Home were incorporated into the Armed Forces Retirement Home by section 411 of Title 24, Hospitals and Asylums.]

#### INTERIM IMPLEMENTATION OF 2013 AMENDMENT

Pub. L. 112-260, title I, §102(b), Jan. 10, 2013, 126 Stat. 2419, provided that: "The Secretary may carry out paragraphs (1) through (3) of section 2404(h) of such title [38 U.S.C. 2404(h)], as added by subsection (a), before the Secretary prescribes regulations pursuant to paragraph (4) of such section, as so added."

#### USE OF FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO

Pub. L. 106-117, title VI, §612, Nov. 30, 1999, 113 Stat. 1580, provided that: "Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary [of Veterans Affairs] may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico."

#### INDEPENDENT STUDY ON IMPROVEMENTS TO VETERANS' CEMETERIES

Pub. L. 106-117, title VI, §613, Nov. 30, 1999, 113 Stat. 1581, provided that:

"(a) STUDY.—Not later than 180 days after the date of the enactment of this Act [Nov. 30, 1999], the Secretary [of Veterans Affairs] shall enter into a contract with one or more qualified organizations to conduct a study of national cemeteries described in subsection (b). For purposes of this section, an entity of Federal, State, or local government is not a qualified organization.

"(b) MATTERS STUDIED.—(1) The study conducted pursuant to the contract entered into under subsection (a) shall include an assessment of each of the following:

"(A) The one-time repairs required at each national cemetery under the jurisdiction of the National Cemetery Administration of the Department of Veterans Affairs to ensure a dignified and respectful setting appropriate to such cemetery, taking into account the variety of age, climate, and burial options at individual national cemeteries.

"(B) The feasibility of making standards of appearance of active national cemeteries, and the feasibility of making standards of appearance of closed national cemeteries, commensurate with standards of appearance of the finest cemeteries in the world.

"(C) The number of additional national cemeteries that will be required for the interment and memorialization in such cemeteries of individuals qualified under chapter 24 of title 38, United States Code, who die after 2005.

"(D) The advantages and disadvantages of the use by the National Cemetery Administration of flat grave markers and upright grave markers.

"(E) The current condition of flat grave marker sections at each of the national cemeteries.

"(2) In presenting the assessment of additional national cemeteries required under paragraph (1)(C), the report shall identify by five-year period, beginning with 2005 and ending with 2020, the following:

"(A) The number of additional national cemeteries required during each such five-year period.

"(B) With respect to each such five-year period, the areas in the United States with the greatest concentration of veterans whose needs are not served by national cemeteries or State veterans' cemeteries.

"(c) REPORT.—(1) Not later than one year after the date on which a qualified organization enters into a contract under subsection (a), the organization shall submit to the Secretary a report setting forth the results of the study conducted and conclusions of the organization with respect to such results.

"(2) Not later than 120 days after the date on which a report is submitted under paragraph (1), the Sec-

retary shall transmit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a copy of the report, together with any comments on the report that the Secretary considers appropriate."

#### GRAVE MARKERS IN CERTAIN LOCATIONS

Pub. L. 103-446, title VIII, §804, Nov. 2, 1994, 108 Stat. 4675, provided that: "Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon."

Pub. L. 102-54, §11, June 13, 1991, 105 Stat. 273, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary may provide for flat grave markers in that section of the Florida National Cemetery in which preplaced grave liners were installed before July 30, 1988."

Pub. L. 100-322, title III, §341(b), May 20, 1988, 102 Stat. 539, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Notwithstanding section 2404(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California."

#### FUNCTIONS, POWERS, AND DUTIES OF SECRETARIES UNAFFECTED

Repeal of sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of Title 24, Hospitals and Asylums, and enactment of provisions set out as notes under sections 271 to 276 of Title 24 without effect upon functions, powers, and duties of secretaries of the military departments with respect to cemeteries, memorials, or monuments under the jurisdiction of the secretary concerned to which the transfer provisions of section 6(a) of Pub. L. 93-43, set out as a note above, do not apply, see section 7(b) of Pub. L. 93-43, set out as a note under sections 271 to 276 of Title 24.

#### STUDIES; RECOMMENDATIONS TO CONGRESS

Pub. L. 93-43, §3, June 18, 1973, 87 Stat. 78, authorized the Administrator to conduct a comprehensive study concerning the criteria governing the development and operation of the National Cemetery System, including the concept of regional cemeteries, the relationship of the National Cemetery System to other burial benefits provided by Federal and State Governments to servicemen and veterans, steps taken to conform the existing system to the recommended criteria, private burial and funeral costs in the United States, current headstone and marker programs, and the marketing and sales practices of non-Federal cemeteries and interment facilities, and to submit his recommendations within twelve months after the convening of the first session of the Ninety-third Congress and also authorized the Administrator, in conjunction with the Secretary of Defense, to conduct a comprehensive study concerning the advisability of including Arlington National Cemetery within the National Cemetery System, the appropriateness of maintaining the present eligibility requirements for burial at Arlington National Cemetery and the advisability of establishing another national cemetery, and to submit the results of their joint recommendations within twelve months after the convening of the first session of the Ninety-third Congress.

#### § 2405. Disposition of inactive cemeteries

(a) The Secretary may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within the Secretary's control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to

the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary of the Interior for such system shall be available for the management and operation of such cemetery.

(b) The Secretary may also transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereon, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Secretary, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

(c) If a cemetery not under the control of the National Cemetery Administration has been or is to be discontinued, the Secretary may provide for the removal of remains from that cemetery to any cemetery under the control of such Administration. The Secretary may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

(Added Pub. L. 93-43, §2(a), June 18, 1973, 87 Stat. 77, §1005; amended Pub. L. 99-576, title VII, §701(56), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101-237, title III, §313(b)(1), (4), Dec. 18, 1989, 103 Stat. 2077; renumbered §2405, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title IV, §403(c)(7), Nov. 11, 1998, 112 Stat. 3339.)

#### AMENDMENTS

1998—Subsec. (c). Pub. L. 105-368, in first sentence, substituted “under the control of the National Cemetery Administration” for “within the National Cemetery System” and “under the control of such Administration” for “within such System”.

1991—Pub. L. 102-83 renumbered section 1005 of this title as this section.

1989—Subsec. (a). Pub. L. 101-237, §313(b)(4), inserted “of the Interior” after “funds appropriated to the Secretary”.

Pub. L. 101-237, §313(b)(1), substituted “Secretary may transfer” for “Administrator may transfer” and “Secretary’s” for “Administrator’s”.

Subsecs. (b), (c). Pub. L. 101-237, §313(b)(1), substituted “Secretary” for “Administrator” wherever appearing.

1986—Subsec. (a). Pub. L. 99-576, §701(56)(A), substituted “the Administrator’s” for “his”.

Subsec. (c). Pub. L. 99-576, §701(56)(B), substituted “The Administrator” for “He”.

#### § 2406. Acquisition of lands

As additional lands are needed for national cemeteries, they may be acquired by the Secretary by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, exchange, or otherwise, as the Secretary determines to be in the best interest of the United States.

(Added Pub. L. 93-43, §2(a), June 18, 1973, 87 Stat. 78, §1006; amended Pub. L. 99-576, title VII, §701(57), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat.

2077; renumbered §2406, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 108-454, title VI, §603, Dec. 10, 2004, 118 Stat. 3624.)

#### AMENDMENTS

2004—Pub. L. 108-454 inserted “exchange,” after “agencies,”.

1991—Pub. L. 102-83 renumbered section 1006 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1986—Pub. L. 99-576 substituted “the Administrator” for “he”.

#### § 2407. Authority to accept and maintain suitable memorials

Subject to such restrictions as the Secretary may prescribe, the Secretary may accept gifts, devise, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. The Secretary may make land available for this purpose, and may furnish such care and maintenance as the Secretary deems necessary.

(Added Pub. L. 93-43, §2(a), June 18, 1973, 87 Stat. 78, §1007; amended Pub. L. 99-576, title VII, §701(58), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §2407, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1007 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1986—Pub. L. 99-576 substituted “the Administrator” for “he” in two places and “The Administrator” for “He”.

#### § 2408. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a)(1) Subject to subsection (b), the Secretary may make a grant to any State for the following purposes:

(A) Establishing, expanding, or improving a veterans' cemetery owned by the State.

(B) Operating and maintaining such a cemetery.

(2) A grant under paragraph (1) may be made only upon submission of an application to the Secretary in such form and manner, and containing such information, as the Secretary may require.

(b) A grant under this section for a purpose described in subsection (a)(1)(A) shall be subject to the following conditions:

(1) The amount of such a grant may not exceed—

(A) in the case of the establishment of a new cemetery, the sum of: (i) the cost of improvements to be made on the land to be converted into a cemetery; and (ii) the cost of initial equipment necessary to operate the cemetery; and

(B) in the case of the expansion or improvement of an existing cemetery, the sum of: (i) the cost of improvements to be made