

Subsec. (b)(1), (2). Pub. L. 105-368, § 404(a)(1), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

“(1) The amount of any grant under this section may not exceed an amount equal to 50 percent of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

“(2) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (1) of this subsection, but the value of such land may not be used for more than an amount equal to 50 percent of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.”

Subsec. (c)(1). Pub. L. 105-368, § 403(c)(8), substituted “under the control of the National Cemetery Administration” for “in the National Cemetery System”.

Subsec. (d)(1). Pub. L. 105-368, § 1005(b)(5), substituted “November 21, 1997,” for “the date of the enactment of this subsection” and “subject to the condition specified in” for “on the condition described in”.

Subsec. (e). Pub. L. 105-368, § 401(b), substituted “shall remain available until expended” for “shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated” in first sentence.

1997—Subsecs. (d), (e). Pub. L. 105-116 added subsec. (d) and redesignated former subsec. (d) as (e).

1994—Subsec. (a)(2). Pub. L. 103-446 substituted “fourteen” for “nine”.

1991—Pub. L. 102-83, § 5(a), renumbered section 1008 of this title as this section.

Subsec. (c)(1). Pub. L. 102-83, § 5(c)(1), substituted “2404” for “1004”.

1989—Subsecs. (a)(1), (c). Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1988—Subsec. (a)(2). Pub. L. 100-687 substituted “nine” for second reference to “four”.

Subsec. (b)(1). Pub. L. 100-322, § 343(1)-(3), redesignated par. (2) as (1), substituted “percent” for “per centum”, and struck out former par. (1) which read as follows: “No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year.”

Subsec. (b)(2). Pub. L. 100-322, § 343(2)-(4), redesignated par. (3) as (2) and substituted “percent” for “per centum” and “paragraph (1)” for “paragraph (2)”. Former par. (2) redesignated (1).

Subsec. (b)(3), (4). Pub. L. 100-322, § 343(2), redesignated par. (4) as (3). Former par. (3) redesignated (2).

1984—Subsec. (a)(2). Pub. L. 98-223 inserted “, and such sums as may be necessary for fiscal year 1985 and for each of the four succeeding fiscal years,” after “fiscal years”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title IV, § 404(a)(2), Nov. 11, 1998, 112 Stat. 3339, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to grants under section 2408 of title 38, United States Code, made after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 11, 1998].”

#### EFFECTIVE DATE

Section effective Oct. 18, 1978, see section 205(a) of Pub. L. 95-476, set out as an Effective Date of 1978 Amendment note under section 2303 of this title.

#### REGULATIONS

Pub. L. 110-157, title II, § 202(b)(4), Dec. 26, 2007, 121 Stat. 1833, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2007], the

Secretary of Veterans Affairs shall prescribe regulations to carry out the amendments made by this subsection [amending this section].”

#### § 2409. Memorial areas in Arlington National Cemetery

(a) The Secretary of the Army may set aside, when available, a suitable area or areas in Arlington National Cemetery, Virginia, to honor the memory of members of the Armed Forces and veterans—

(1) who are missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and whose ashes were scattered without interment of any portion of the ashes.

(b)(1) Under regulations prescribed by the Secretary of the Army and subject to paragraph (2), appropriate memorials or markers may be erected in Arlington National Cemetery to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

(2)(A) Except for a monument containing or marking interred remains, no monument (or similar structure, as determined by the Secretary of the Army in regulations) may be placed in Arlington National Cemetery except pursuant to the provisions of this subsection.

(B) A monument may be placed in Arlington National Cemetery if the monument commemorates—

(i) the service in the Armed Forces of the individual, or group of individuals, whose memory is to be honored by the monument; or

(ii) a particular military event.

(C) No monument may be placed in Arlington National Cemetery until the end of the 25-year period beginning—

(i) in the case of the commemoration of service under subparagraph (B)(i), on the last day of the period of service so commemorated; and

(ii) in the case of the commemoration of a particular military event under subparagraph (B)(ii), on the last day of the period of the event.

(D) A monument may be placed only in those sections of Arlington National Cemetery designated by the Secretary of the Army for such placement and only on land the Secretary determines is not suitable for burial.

(E) A monument may only be placed in Arlington National Cemetery if an appropriate non-governmental entity has agreed to act as a sponsoring organization to coordinate the placement of the monument and—

(i) the construction and placement of the monument are paid for only using funds from private sources;

(ii) the Secretary of the Army consults with the Commission of Fine Arts and the Advisory Committee on Arlington National Cemetery before approving the design of the monument; and

(iii) the sponsoring organization provides for an independent study on the availability and suitability of alternative locations for the proposed monument outside of Arlington National Cemetery.

(3)(A) The Secretary of the Army may waive the requirement under paragraph (2)(C) in a case in which the monument would commemorate a group of individuals who the Secretary determines—

(i) has made valuable contributions to the Armed Forces that have been ongoing and perpetual for longer than 25 years and are expected to continue on indefinitely; and

(ii) has provided service that is of such a character that the failure to place a monument to the group in Arlington National Cemetery would present a manifest injustice.

(B) If the Secretary waives such requirement under subparagraph (A), the Secretary shall—

(i) make available on an Internet website notification of the waiver and the rationale for the waiver; and

(ii) submit to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives written notice of the waiver and the rationale for the waiver.

(4) The Secretary of the Army shall provide notice to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives of any monument proposed to be placed in Arlington National Cemetery. During the 60-day period beginning on the date on which such notice is received, Congress may pass a joint resolution of disapproval of the placement of the monument. The proposed monument may not be placed in Arlington National Cemetery until the later of—

(A) if Congress does not pass a joint resolution of disapproval of the placement of the monument, the date that is 60 days after the date on which notice is received under this paragraph; or

(B) if Congress passes a joint resolution of disapproval of the placement of the monument, and the President signs a veto of such resolution, the earlier of—

(i) the date on which either House of Congress votes and fails to override the veto of the President; or

(ii) the date that is 30 session days after the date on which Congress received the veto and objections of the President.

(Added Pub. L. 99-576, title IV, §413(a), Oct. 28, 1986, 100 Stat. 3284, §1009; amended Pub. L. 101-237, title III, §313(b)(5), Dec. 18, 1989, 103 Stat. 2077; renumbered §2409, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 112-154, title VI, §604, Aug. 6, 2012, 126 Stat. 1201.)

#### AMENDMENTS

2012—Subsec. (b). Pub. L. 112-154 designated existing provisions as par. (1), inserted “and subject to paragraph (2)” after “Secretary of the Army”, and added pars. (2) to (4).

1991—Pub. L. 102-83 renumbered section 1009 of this title as this section.

1989—Subsec. (b). Pub. L. 101-237 inserted “of the Army” after “Secretary”.

#### TRANSFER TO THE SECRETARY OF THE ARMY AND MANAGEMENT OF PARCEL OF FEDERAL LAND IN ARLINGTON, VIRGINIA

Pub. L. 116-92, div. B, title XXVIII, §2834(a), Dec. 20, 2019, 133 Stat. 1893, provided that:

“(1) TRANSFER.—Administrative jurisdiction over the parcel of Federal land described in paragraph (2) is transferred from the Secretary of the Interior to the Secretary of the Army.

“(2) DESCRIPTION OF LAND.—The parcel of Federal land referred to in paragraph (1) is the approximately 16.09-acre parcel of land in Arlington, Virginia, as depicted on the map entitled ‘Arlington National Cemetery, Memorial Ave-NPS Parcel’ and dated February 11, 2019.”

Pub. L. 116-92, div. B, title XXVIII, §2834(e)(3)(A), Dec. 20, 2019, 133 Stat. 1893, provided that: “The parcel of Federal land transferred to the Secretary of the Army by subsection (a)(1) [set out above] shall be administered by the Secretary of the Army—

“(i) as part of Arlington National Cemetery; and

“(ii) in accordance with applicable law, including—

“(I) regulations; and

“(II) section 2409 of title 38, United States Code.”

#### CONSTRUCTION OF MEMORIAL TO THE CREW OF THE APOLLO I LAUNCH TEST ACCIDENT AT ARLINGTON NATIONAL CEMETERY

Pub. L. 115-91, div. A, title X, §1087, Dec. 12, 2017, 131 Stat. 1604, provided that: “Subject to applicable requirements of section 2409(b)(2)(E) of title 38, United States Code, the Secretary of the Army, in consultation with the Administrator of the National Aeronautics and Space Administration, the Commission of Fine Arts, and the Advisory Committee on Arlington National Cemetery, shall authorize the construction, at an appropriate place in Arlington National Cemetery, Virginia, of a memorial marker honoring the three members of the crew of the Apollo I who died during a launch rehearsal test on January 27, 1967, in Cape Canaveral, Florida. The memorial may not be constructed in a location that is otherwise suitable as an interment site.”

#### COLUMBIA ORBITER MEMORIAL

Pub. L. 108-11, title III, Apr. 16, 2003, 117 Stat. 603, provided that:

“SEC. 301. SHORT TITLE.

“This title may be cited as the ‘Columbia Orbiter Memorial Act’.

“SEC. 302. CONSTRUCTION OF MEMORIAL TO CREW OF COLUMBIA ORBITER AT ARLINGTON NATIONAL CEMETERY.

“(a) CONSTRUCTION REQUIRED.—The Secretary of the Army shall, in consultation with the Administrator of the National Aeronautics and Space Administration, construct at an appropriate place in Arlington National Cemetery, Virginia, a memorial marker honoring the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS-107.

“(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by title II of the Department of Defense Appropriations Act, 2003 (Public Law 107-248) under the heading ‘Operation and Maintenance, Army’ [116 Stat. 1521], \$500,000 shall be available for the construction of the memorial marker required by subsection (a).

“SEC. 303. DONATIONS FOR MEMORIAL FOR CREW OF COLUMBIA ORBITER.

“(a) AUTHORITY TO ACCEPT DONATIONS.—The Administrator of the National Aeronautics and Space Administration may accept gifts and donations of services, money, and property (including personal, tangible, or

intangible property) for the purpose of an appropriate memorial or monument to the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS-107, whether such memorial or monument is constructed by the Administrator or is the memorial marker required by section 302.

“(b) TRANSFER.—(1) The Administrator may transfer to the Secretary of the Army any services, money, or property accepted by the Administrator under subsection (a) for the purpose of the construction of the memorial marker required by section 302.

“(2) Any moneys transferred to the Secretary under paragraph (1) shall be merged with amounts in the account referred to in subsection (b) of section 302, and shall be available for the purpose referred to in that subsection.

“(c) EXPIRATION OF AUTHORITY.—The authority of the Administrator to accept gifts and donations under subsection (a) shall expire 5 years after the date of the enactment of this Act [Apr. 16, 2003].”

**AUTHORIZATION OF PLACEMENT OF A MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE**

Pub. L. 107-330, title II, §204, Dec. 6, 2002, 116 Stat. 2824, provided that: “The Secretary of the Army is authorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.”

**§ 2410. Burial of cremated remains in Arlington National Cemetery**

(a) The Secretary of the Army shall designate an area of appropriate size within Arlington National Cemetery for the unmarked interment, in accordance with such regulations as the Secretary may prescribe, of the ashes of persons eligible for interment in Arlington National Cemetery whose remains were cremated. Such area shall be an area not suitable for the burial of casketed remains.

(b) The Secretary of each military department shall make available appropriate forms on which those members of the Armed Forces who so desire may indicate their desire to be buried within the area to be designated under subsection (a).

(c)(1) The Secretary of the Army shall ensure that, under such regulations as the Secretary may prescribe, the cremated remains of any person described in paragraph (2) are eligible for above ground inurnment in Arlington National Cemetery with military honors in accordance with section 1491 of title 10.

(2) A person described in this paragraph is a person whose service has been determined to be active duty service pursuant to section 401 of the GI Bill Improvement Act of 1977 (Public Law 95-202; 38 U.S.C. 106 note) as of the date of the enactment of this paragraph.

(Added Pub. L. 101-237, title V, §502(a), Dec. 18, 1989, 103 Stat. 2093, §1010; amended Pub. L. 102-54, §14(b)(2), June 13, 1991, 105 Stat. 284; renumbered §2410, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 114-158, §1(a), May 20, 2016, 130 Stat. 394.)

**REFERENCES IN TEXT**

The date of the enactment of this paragraph, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 114-158, which was approved May 20, 2016.

**AMENDMENTS**

2016—Subsec. (c). Pub. L. 114-158 added subsec. (c).  
1991—Pub. L. 102-83 renumbered section 1010 of this title as this section.

Subsec. (b). Pub. L. 102-54 substituted “each military department” for “the military departments”.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114-158, §1(b), May 20, 2016, 130 Stat. 394, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply with respect to—

“(A) the remains of a person that are not formally interred or inurned as of the date of the enactment of this Act [May 20, 2016]; and

“(B) a person who dies on or after the date of the enactment of this Act.

“(2) FORMALLY INTERRED OR INURNED DEFINED.—In this subsection, the term ‘formally interred or inurned’ means interred or inurned in a cemetery, crypt, mausoleum, columbarium, niche, or other similar formal location.”

**§ 2410A. Arlington National Cemetery: other administrative matters**

(a) ONE GRAVESITE.—(1) Not more than one gravesite may be provided at Arlington National Cemetery to a veteran or member of the Armed Forces who is eligible for interment or inurnment at such cemetery.

(2) The Secretary of the Army may waive the prohibition in paragraph (1) as the Secretary of the Army considers appropriate.

(b) PROHIBITION AGAINST RESERVATION OF GRAVESITES.—(1) A gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.

(2)(A) The President may waive the prohibition in paragraph (1) as the President considers appropriate.

(B) Upon waiving the prohibition in paragraph (1), the President shall submit notice of such waiver to—

(i) the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate; and

(ii) the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives.

(Added Pub. L. 112-154, title VI, §602(a), Aug. 6, 2012, 126 Stat. 1199.)

**EFFECTIVE DATE**

Pub. L. 112-154, title VI, §602(c), Aug. 6, 2012, 126 Stat. 1200, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), section 2410A of title 38, United States Code, as added by subsection (a), shall apply with respect to all interments at Arlington National Cemetery after the date of the enactment of this Act [Aug. 6, 2012].

“(2) EXCEPTION.—Subsection (b) of such section, as so added, shall not apply with respect to the interment of an individual for whom a request for a reserved gravesite was approved by the Secretary of the Army before January 1, 1962.”

**§ 2411. Prohibition against interment or memorialization in the National Cemetery Administration or Arlington National Cemetery of persons committing Federal or State capital crimes**

(a)(1) In the case of a person described in subsection (b), the appropriate Federal official may not—