

zens and are assigned by the Secretary to Pershing Hall.

“(C) LEASES.—(1) The Secretary may enter into agreements as the Secretary determines necessary or appropriate for the operation, development, and improvement of Pershing Hall and its site, including the leasing of portions of the Hall for terms not to exceed 99 years in areas that are newly constructed or substantially rehabilitated and for not to exceed 20 years in other areas of the Hall.

“(2) Leases entered into by the Secretary under this subsection shall be for consideration in the form of cash or in-kind, or a combination of the two, as determined by the Secretary, which shall include the value of space leased back to the Secretary by the lessee, net of rent paid by the Secretary, and the present value of the residual interest of the Secretary at the end of the lease term.

“(d) FUND.—(1) There is hereby established the Pershing Hall Revolving Fund to be administered by the Secretary of Veterans Affairs.

“(2) There shall be transferred to the Pershing Hall Revolving Fund, at such time or times as the Secretary may determine without limitation as to year, amounts as determined by the Secretary, not to exceed \$1,000,000 in total, from funds appropriated to the Department of Veterans Affairs for the construction of major projects. The account from which any such amount is transferred shall be reimbursed promptly from other funds as they become part of the Pershing Hall Revolving Fund.

“(3) The Pershing Hall Memorial Fund, established in the Treasury of the United States pursuant to section 2 of the Act of June 28, 1935 (Public Law 74-171; 49 Stat. 426) [former 36 U.S.C. 491], is hereby abolished and the corpus of the fund, including accrued interest, is transferred to the Pershing Hall Revolving Fund.

“(4) Funds received by the Secretary from operation of Pershing Hall or from any lease or other agreement with respect to Pershing Hall shall be deposited in the Pershing Hall Revolving Fund.

“(5) The Secretary of the Treasury shall invest any portion of the Revolving Fund that, as determined by the Secretary of Veterans Affairs, is not required to meet current expenses of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of Veterans Affairs, has a maturity suitable for the Revolving Fund. The Secretary of the Treasury shall credit to the Revolving Fund the interest on, and the proceeds from the sale or redemption of, such obligations.

“(6)(A) Subject to subparagraphs (B) and (C), the Secretary of Veterans Affairs may expend not more than \$100,000 from the Fund in any fiscal year upon projects, activities, and facilities determined by the Secretary to be in keeping with the mission of the Department.

“(B) An expenditure under subparagraph (A) may be made only from funds that will remain in the Fund in any fiscal year after payment of expenses incurred with respect to Pershing Hall for such fiscal year and only after the reimbursement of all amounts transferred to the Fund under subsection (d)(2) has been completed.

“(C) An expenditure authorized by subparagraph (A) shall be reported by the Secretary to the Congress no later than November 1 of each year for the fiscal year ending on the previous September 30.

“(e) WAIVER.—The Secretary may carry out the provisions of this section without regard to section 8122 of title 38, United States Code, subchapter II of chapter 5 of title 40, United States Code, sections 541 through 555 and 1302 of title 40, United States Code, or any other provision of law inconsistent with this section.”

[Section 3(o) of Pub. L. 107-217, which directed amendment of section 403(e) of Pub. L. 102-86, set out above, by substituting “subchapter II of chapter 5 of title 40, sections 541-555 and 1302 of title 40” for “section 303b of title 40, sections 483 and 484 of title 40”, could not be executed.]

[Section 403 of Pub. L. 102-86, set out above, was classified to section 493 of former Title 36 prior to the general revision and enactment of Title 36, Patriotic and National Observances, Ceremonies, and Organizations, by Pub. L. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1253.]

AUTHORITY TO ESTABLISH NATIONAL CEMETERIES

Pub. L. 99-576, title IV, § 414, Oct. 28, 1986, 100 Stat. 3284, provided that:

“(a) AUTHORITY.—The authority of the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] under chapter 24 of title 38, United States Code, to develop and acquire cemeteries as part of the National Cemetery System [now National Cemetery Administration] includes, but is not limited to, the authority to establish additional national cemeteries to serve the needs of veterans and their families in—

“(1) San Francisco, California;

“(2) Chicago, Illinois;

“(3) Cleveland, Ohio;

“(4) Pittsburgh, Pennsylvania;

“(5) Dallas/Fort Worth, Texas;

“(6) Miami, Florida;

“(7) Seattle, Washington;

“(8) Atlanta, Georgia;

“(9) Phoenix/Tucson, Arizona;

“(10) Birmingham, Alabama; and

“(11) any other State in which a national cemetery is not available for the burial of veterans.

“(b) LAND ACQUISITION.—The Administrator [now Secretary] may acquire land necessary for a cemetery authorized by subsection (a) of this section by donation, purchase, condemnation, exchange of lands in the United States public domain, or otherwise.”

§ 2401. Advisory Committee on Cemeteries and Memorials

There shall be appointed by the Secretary an Advisory Committee on Cemeteries and Memorials. The Secretary shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which the Secretary is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Secretary and to Congress.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 75, § 1001; amended Pub. L. 99-576, title VII, § 701(53), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101-237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2401, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1001 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” before “is responsible”.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a periodic report to Congress on the Advisory Committee on Cemeteries and Memorials is listed on page 145), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2402. Persons eligible for interment in national cemeteries

(a) Under such regulations as the Secretary may prescribe and subject to the provisions of section 6105 of this title, the remains of the following persons may be buried in any open national cemetery under the control of the National Cemetery Administration:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, air, or space service).

(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) attending that camp or on that cruise;

(ii) performing that travel; or

(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

(5) The spouse, surviving spouse (which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage), minor child (which for purposes of this chapter includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution), and, in the discretion of the Secretary, unmarried adult child of any of the persons listed in paragraphs (1) through (4) and paragraph (7),

and the spouse, minor child, and, in the discretion of the Secretary, unmarried adult child of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the spouse's or child's death if such death occurs before October 1, 2024.

(6) Such other persons or classes of persons as may be designated by the Secretary.

(7) Any person who at the time of death was entitled to retired pay under chapter 1223 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(8) Any individual whose service is described in subsection (a) or (b) of section 107 of this title if such individual at the time of death—

(A) was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and

(B) resided in the United States.

(9)(A) The parent of a person described in subparagraph (B), if the Secretary determines that there is available space at the gravesite where the person described in subparagraph (B) is interred.

(B) A person described in this subparagraph is a person described in paragraph (1) who—

(i) is a hostile casualty or died from a training-related injury;

(ii) is interred in a national cemetery; and

(iii) at the time of the person's parent's death, did not have a spouse, surviving spouse, or child who is buried or who, upon death, may be eligible for burial in a national cemetery pursuant to paragraph (5).

(10) Any individual—

(A)¹ who—

(i) was naturalized pursuant to section 2(1) of the Hmong Veterans' Naturalization Act of 2000 (Public Law 106-207; 8 U.S.C. 1423 note); and

(ii) at the time of the individual's death resided in the United States.

(b) For purposes of subsection (a)(9) of this section:

(1) The term "parent" means a biological father or a biological mother or, in the case of adoption, a father through adoption or a mother through adoption.

(2) The term "hostile casualty" means a person who, as a member of the Armed Forces, dies as the direct result of hostile action with the enemy, while in combat, while going to or returning from a combat mission if the cause of death was directly related to hostile action, or while hospitalized or undergoing treatment at the expense of the United States for injury incurred during combat, and includes a person killed mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force, but does not include a person who dies due to the elements, a self-inflicted wound, combat fatigue, or a friendly force while the person was in an absent-without-leave, deserter, or dropped-from-rolls status or was voluntarily absent from a place of duty.

¹ So in original. No subpar. (B) has been enacted.