

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.)

Editorial Notes

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.)

Editorial Notes

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.)

Editorial Notes

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; (ii) the cost of initial equipment necessary to operate the cemetery; and (iii) training costs described in subsection (c)(1); 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 on any land to be added to the cemetery; and (ii) the cost of any improvements to be made to the existing cemetery; and (iii) training costs described in subsection (c)(1).

(2) If the amount of such a grant is less than the amount of costs referred to in subparagraph (A) or (B) of paragraph (1), the State receiving the grant shall contribute the excess of such costs over the grant.

(3) If a State that has received such a grant to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

(c)(1) A grant under this section for a purpose described in subparagraph (A) or (B) of subsection (a)(1) may be used, solely or in part, for training costs, including travel expenses and up to four weeks of lodging expenses, associated

with attendance by employees of a veterans' cemetery owned by a State or on trust land owned by, or held in trust for, a tribal organization at training provided by the National Cemetery Administration.

(2) Any employee described in paragraph (1) who participates in training described in such paragraph shall fulfill a service requirement as determined by the Secretary.

(3) The Secretary may by regulation prescribe such additional terms and conditions for grants used for training costs under this subsection as the Secretary considers appropriate.

(d)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall be made on the condition that such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Secretary may by regulation prescribe. In prescribing regulations for the purposes of the preceding sentence, the Secretary shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries under the control of the National Cemetery Administration, including those provided in subsections (b), (c), and (d) of section 2404 of this title.

(2) The Secretary may by regulation prescribe such additional terms and conditions for grants under this section as the Secretary considers appropriate.

(e)(1) In addition to the conditions specified in subsections (b) and (c), any grant made to a State under this section shall be made subject to the condition specified in paragraph (2).

(2) For purposes of paragraph (1), the condition described in this paragraph is that, after the date of the receipt of the grant, such State prohibit the interment or memorialization in that cemetery of a person described in section 2411(b) of this title, subject to the receipt of notice described in subsection (a)(2) of such section, except that for purposes of this subsection—

(A) such notice shall be furnished to an appropriate official of such State; and

(B) a finding described in subsection (b)(3) of such section shall be made by an appropriate official of such State.

(f)(1) Amounts appropriated to carry out this section shall remain available until expended. If all funds from a grant under this section have not been utilized by a State for the purpose for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.

(2) In any fiscal year, the aggregate amount of grants awarded under this section for the purposes specified in subsection (a)(1)(B) may not exceed \$10,000,000.

(g)(1) The Secretary may make grants under this subsection to any tribal organization to assist the tribal organization in establishing, expanding, or improving veterans' cemeteries, or in operating and maintaining such cemeteries, on trust land owned by, or held in trust for, the tribal organization.

(2) Grants under this subsection shall be made in the same manner, and under the same condi-

tions, as grants to States are made under the preceding provisions of this section.

(3) For purposes of this subsection:

(A) The term "tribal organization" has the meaning given that term in section 3765(4) of this title.

(B) The term "trust land" has the meaning given that term in section 3765(1) of this title.

(Added Pub. L. 95-476, title II, § 202(b)(1), Oct. 18, 1978, 92 Stat. 1504, § 1008; amended Pub. L. 98-223, title II, § 202, Mar. 2, 1984, 98 Stat. 41; Pub. L. 100-322, title III, § 343, May 20, 1988, 102 Stat. 540; Pub. L. 100-687, div. B, title XVI, § 1601, Nov. 18, 1988, 102 Stat. 4137; Pub. L. 101-237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2408 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title VIII, § 803, Nov. 2, 1994, 108 Stat. 4675; Pub. L. 105-116, § 2, Nov. 21, 1997, 111 Stat. 2382; Pub. L. 105-368, title IV, §§ 403(c)(8), 404(a)(1), (b), (c), title X, § 1005(b)(5), Nov. 11, 1998, 112 Stat. 3339, 3365; Pub. L. 108-183, title V, § 503, Dec. 16, 2003, 117 Stat. 2667; Pub. L. 109-461, title IV, § 403, Dec. 22, 2006, 120 Stat. 3430; Pub. L. 110-157, title II, § 202(b)(1)-(3), Dec. 26, 2007, 121 Stat. 1832, 1833; Pub. L. 116-315, title II, §§ 2205(a), (b)(1), 2206, 2208(a), Jan. 5, 2021, 134 Stat. 4986-4988.)

AMENDMENT OF SECTION

Pub. L. 116-315, title II, § 2205(a), (b)(1), (c), Jan. 5, 2021, 134 Stat. 4986, 4987, provided that, effective on the date that is two years after Jan. 5, 2021, this section is amended as follows:

(1) *in section catchline, by inserting "counties, and tribal organizations" after "States";*

(2) *by inserting "or county" after "State" each place it appears;*

(3) *in subsection (a)(1), in the matter preceding subparagraph (A), by striking "subsection (b)" and inserting "subsections (b), (c), (d), and (g)";*

(4) *in subsection (f), by redesignating paragraph (3) as subsection (h);*

(5) *by adding the following new subsection:*

"(g)(1) The Secretary may make a grant to a county under this section only if—

"(A)(i) the State in which the county is located does not have a veterans' cemetery owned by the State;

"(ii) the State is not in receipt of a grant under this section for the construction of a new veterans' cemetery to be owned by the State;

"(iii) the State did not apply for a grant under this section during the previous year;

"(iv) no tribal organization from the State in which the county is located has a veterans' cemetery on trust land owned by, or held in trust for, the tribal organization;

"(v) no such tribal organization is in receipt of a grant under this section for the construction of a new veterans' cemetery to be located on such land; and

"(vi) no such tribal organization applied for a grant under this section during the previous year; and

"(B) the county demonstrates in the application under subsection (a)(2), to the satisfaction of the Secretary, that the county has the resources necessary to operate and maintain the veterans' cemetery owned by the county.

“(2)(A) If a county and the State in which the county is located both apply for a grant under this section for the same year, the Secretary shall give priority to the State.

“(B) If a county and a tribal organization from the State in which the county is located both apply for a grant under this section for the same year, the Secretary shall give priority to the tribal organization.

“(3) The Secretary shall prescribe regulations to carry out this subsection.”; and

(6) by moving subsection (h), as redesignated, to follow subsection (g), and amending it as follows:

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and (B) in the matter preceding paragraph (1), as so redesignated, by striking “this subsection” and inserting “this section”.

See Codification note and 2021 Amendment notes below.

Editorial Notes

CODIFICATION

Section 2208(a)(2) of Pub. L. 116-315 redesignated subsecs. (f), (g), and (h) of this section as (g), (h), and (i), respectively, effective on Jan. 5, 2021. However, this section did not contain subsecs. (g) and (h) until their addition by section 2205(a)(3) and (4)(A) of Pub. L. 116-315, which was not effective until 2 years after Jan. 5, 2021. The redesignations of subsecs. (g) and (h) were executed to reflect the probable intent of Congress, notwithstanding that they were redesignated 2 years before they existed. By the same token, the amendment by section 2205(a)(4)(A), which redesignated subsec. (f)(3) as (h), was executed to subsec. (g)(3) as the probable intent of Congress because the redesignation of subsec. (f) as (g) by section 2208(a)(2) had already taken effect. See 2021 Amendment notes below.

AMENDMENTS

2021—Pub. L. 116-315, § 2205(b)(1), inserted “, counties, and tribal organizations” after “States” in section catchline.

Pub. L. 116-315, § 2205(a)(1), inserted “or county” after “State” wherever appearing.

Subsec. (a)(1). Pub. L. 116-315, § 2205(a)(2), substituted “subsections (b), (c), (d), and (g)” for “subsection (b)”.

Subsec. (b)(1)(A). Pub. L. 116-315, § 2208(a)(1)(A), substituted “(ii) the cost” for “and (ii) the cost” and inserted before semicolon “; and (iii) training costs described in subsection (c)(1)”.

Subsec. (b)(1)(B). Pub. L. 116-315, § 2208(a)(1)(B), substituted “(ii) the cost” for “and (ii) the cost” and inserted “; and (iii) training costs described in subsection (c)(1)” before period at end.

Subsec. (c). Pub. L. 116-315, § 2208(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 116-315, § 2208(a)(2), redesignated subsecs. (c) and (d) as (d) and (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 116-315, § 2206, substituted “\$10,000,000” for “\$5,000,000”.

Subsec. (f). Pub. L. 116-315, § 2208(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 116-315, § 2208(a)(2), redesignated subsec. (f) as (g). Another subsec. (g), which was added by Pub. L. 116-315, § 2205(a)(3), was redesignated (h). See Codification note above.

Pub. L. 116-315, § 2205(a)(3), added subsec. (g), which had already been redesignated (h). See Codification note above.

Subsec. (g)(3). Pub. L. 116-315, § 2205(a)(4)(A)–(C), redesignated par. (3) as (h) and subpars. (A) and (B) as pars. (1) and (2), respectively. Amendment was directed

to subsec. (f)(3) but executed to (g)(3) to reflect the probable intent of Congress. See Codification note above.

Subsec. (h). Pub. L. 116-315, § 2208(a)(2), redesignated subsec. (g), as added by Pub. L. 116-315, § 2205(a)(3), as (h). Another subsec. (h), which was redesignated from (g)(3) (formerly (f)(3)) by Pub. L. 116-315, § 2205(a)(4)(A), was redesignated (i). See Codification note above.

Pub. L. 116-315, § 2205(a)(4)(A)–(C), redesignated subsec. (g)(3) as (h) (which had already been redesignated (i)) and subpars. (A) and (B) as pars. (1) and (2), respectively. Amendment was directed to subsec. (f)(3) but executed to (g)(3) to reflect the probable intent of Congress. See Codification note above.

Subsec. (i). Pub. L. 116-315, § 2208(a)(2), redesignated subsec. (h), as redesignated by Pub. L. 116-315, § 2205(a)(4)(A), (B), as (i). See Codification note above.

Pub. L. 116-315, § 2205(a)(4)(D), which directed amendment of subsec. (h) by substituting “this section” for “this subsection” in introductory provisions, was executed by making the substitution in subsec. (i) to reflect the probable intent of Congress and the redesignation of subsec. (h) as (i) by Pub. L. 116-315, § 2208(a)(2).

2007—Subsec. (a). Pub. L. 110-157, § 202(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Subject to subsection (b) of this section, the Secretary may make grants to any State to assist such State in establishing, expanding, or improving veterans’ cemeteries owned by such State. Any such grant 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.”

Subsec. (b). Pub. L. 110-157, § 202(b)(3)(A), substituted “A grant under this section for a purpose described in subsection (a)(1)(A)” for “Grants under this section” in introductory provisions and “such a grant” for “a grant under this section” wherever appearing.

Subsec. (d)(1). Pub. L. 110-157, § 202(b)(3)(B), struck out “to assist such State in establishing, expanding, or improving a veterans’ cemetery” before “shall be made subject”.

Subsec. (e). Pub. L. 110-157, § 202(b)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(1). Pub. L. 110-157, § 202(b)(3)(C), inserted “, or in operating and maintaining such cemeteries,” after “veterans’ cemeteries”.

2006—Subsec. (f). Pub. L. 109-461 added subsec. (f).

2003—Subsec. (a). Pub. L. 108-183, § 503(a), struck out par. (1) designation before “Subject to” and struck out par. (2) which authorized amounts for fiscal years 1999 through 2004 for grants.

Subsec. (d)(1). Pub. L. 108-183, § 503(c), struck out “on or after November 21, 1997,” after “grant made”.

Subsec. (e). Pub. L. 108-183, § 503(b), substituted “Amounts appropriated to carry out this section” for “Sums appropriated under subsection (a) of this section”.

1998—Subsec. (a)(2). Pub. L. 105-368, § 404(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “There is authorized to be appropriated \$5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years, and such sums as may be necessary for fiscal year 1985 and for each of the fourteen succeeding fiscal years, for the purpose of making grants under paragraph (1) of this subsection.”

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".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-315, title II, §2205(c), Jan. 5, 2021, 134 Stat. 4987, provided that: "The amendments made by this section [amending this section] shall take on effect on the date that is two years after the date of the enactment of this Act [Jan. 5, 2021]."

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 section [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 nongovernmental 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 pro-