

memory of deceased persons eligible for burial in a national cemetery by reason of any of paragraphs (1), (2), (3), or (7) of section 2402(a) of this title, by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the deceased individual's service in the Armed Forces. The award of a certificate to one eligible recipient will not preclude authorization of another certificate if a request is received from some other eligible recipient.

(b) For the purpose of this section an "eligible recipient" means the next of kin, a relative or friend upon request, or an authorized service representative acting on behalf of such relative or friend.

(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.

(Added Pub. L. 89-88, §1(a), July 24, 1965, 79 Stat. 264; amended Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 107-330, title II, §201(a), Dec. 6, 2002, 116 Stat. 2823; Pub. L. 112-154, title VI, §603, Aug. 6, 2012, 126 Stat. 1201; Pub. L. 114-315, title III, §302(a), Dec. 16, 2016, 130 Stat. 1551.)

Editorial Notes

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-315 substituted "persons eligible for burial in a national cemetery by reason of any of paragraphs (1), (2), (3), or (7) of section 2402(a) of this title," for "veterans, discharged under honorable conditions, and persons who died in the active military, naval, or air service,".

2012—Subsec. (a). Pub. L. 112-154 inserted "and persons who died in the active military, naval, or air service," after "under honorable conditions," and substituted "deceased individual's" for "veteran's".

2002—Subsec. (c). Pub. L. 107-330 added subsec. (c).

1991—Subsec. (a). Pub. L. 102-83 substituted "Secretary" for "Administrator".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-315, title III, §302(b), Dec. 16, 2016, 130 Stat. 1551, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to the death of a person eligible for burial in a national cemetery by reason of paragraph (1), (2), (3), or (7) of section 2402(a) of title 38, United States Code, occurring before, on, or after the date of the enactment of this Act [Dec. 16, 2016]."

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-330, title II, §201(d), Dec. 6, 2002, 116 Stat. 2823, provided that: "The amendments made by this section [amending this section and sections 2301 and 2306 of this title] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Dec. 6, 2002]."

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities.

(2) Benefits under section 2307 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected disabilities.

(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected disabilities.

(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.

(b) The following accounts of the Department shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) The following life insurance accounts:

(A) The National Service Life Insurance Fund authorized by section 1920 of this title.

(B) The Service-Disabled Veterans Insurance Fund authorized by section 1922 of this title.

(C) The Veterans Special Life Insurance Fund authorized by section 1923 of this title.

(D) The Veterans Reopened Insurance Fund authorized by section 1925 of this title.

(E) The United States Government Life Insurance Fund authorized by section 1955 of this title.

(F) The Veterans Insurance and Indemnity appropriation authorized by section 1919 of this title.

(2) The following revolving fund accounts:

(A) The Department of Veterans Affairs Special Therapeutic and Rehabilitation Activities Fund established by section 1718(c) of this title.

(B) The Veterans' Canteen Service revolving fund authorized by section 7804 of this title.

(c)(1) A benefit under section 2301, 2302, 2303, 2306, or 2308 of this title that is subject to reduction under a sequestration order or sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect on the date of the death of the veteran concerned.

(2) A benefit paid to, or on behalf of, an eligible veteran for pursuit of a program of education or training under chapter 30, 31, 34, 35, or 36 of this title that is subject to a sequestration order or a sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect during the period of education or training for which the benefit is paid.

(3) In implementation of a sequestration order or law with respect to each account from which a benefit described in paragraph (1) or (2) of this subsection is paid (including the making of determinations of the amounts by which such benefits are to be reduced), the total of the amounts (as estimated by the Secretary after consultation with the Director of the Congressional Budget Office) by which payments of such benefit will be reduced by reason of such paragraph after the last day of the period during which such order or law is in effect shall be deemed to be additional reductions in the payments of such benefit made, and in new budget authority for such payments, during such period.

(d) In computing the amount of new budget authority by which a budget account of the Department is to be reduced for a fiscal year under a report of the Director of the Office of Management and Budget, or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined shall be established without regard to any amount of new budget authority in such account (determined under section 251(a)(6)¹ of such Act) for any of the programs listed in subsection (a) of this section.

(e) This section applies without regard to any other provision of law (whether enacted before, on, or after the date of the enactment of this section) unless such Act expressly provides that it is enacted as a limitation to this section.

(f) For the purposes of this section:

(1) The term "sequestration" means a reduction in spending authority and loan guarantee commitments generally throughout the Government under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law.

(2) The term "sequestration law" means a law enacted with respect to a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law (under the procedures specified in that Act or otherwise).

(3) The term "sequestration order" means an order of the President issued under part C of such Act.

(Added Pub. L. 99-576, title VI, § 601(a)(1), Oct. 28, 1986, 100 Stat. 3287; amended Pub. L. 100-198, § 12(a), Dec. 21, 1987, 101 Stat. 1325; Pub. L. 100-322, title IV, § 411(b), (c), May 20, 1988, 102 Stat. 547; Pub. L. 102-40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; Pub. L. 102-83, §§ 4(a)(2)(B)(i), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403-406; Pub. L. 116-315, title II, § 2202(b)(1)(D), Jan. 5, 2021, 134 Stat. 4985.)

AMENDMENT OF SUBSECTION (c)(1)

Pub. L. 116-315, title II, § 2202(b)(1)(B), (d), Jan. 5, 2021, 134 Stat. 4985, provided that, applicable to deaths that occur on or after the date that is two years after Jan. 5, 2021, subsection (c)(1) of this section is amended by striking out "2302," after "section 2301,". See 2021 Amendment note below.

¹ See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsecs. (a), (b), (d), and (f), is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038. Part C of the Act is classified generally to subchapter I (§900 et seq.) of chapter 20 of Title 2, The Congress. Section 251 of the Act is classified to section 901 of Title 2, and was amended generally by Pub. L. 101-508, title XIII, § 13101(a), Nov. 5, 1990, 104 Stat. 1388-577, and Pub. L. 112-25, title I, § 101, Aug. 2, 2011, 125 Stat. 241. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 99-576, which was approved Oct. 28, 1986.

AMENDMENTS

2021—Subsec. (c)(1). Pub. L. 116-315 struck out "2302," after "section 2301."

1991—Subsec. (a)(2). Pub. L. 102-83, § 5(c)(1), substituted "2307" for "907".

Subsec. (b). Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in introductory provisions.

Subsec. (b)(1). Pub. L. 102-83, § 5(c)(1), substituted "1920" for "720" in subpar. (A), "1922" for "722" in subpar. (B), "1923" for "723" in subpar. (C), "1925" for "725" in subpar. (D), "1955" for "755" in subpar. (E), and "1919" for "719" in subpar. (F).

Subsec. (b)(2)(A). Pub. L. 102-83, § 5(c)(1), substituted "1718(c)" for "618(c)".

Pub. L. 102-83, § 4(a)(2)(B)(i), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (b)(2)(B). Pub. L. 102-40 substituted "7804" for "4204".

Subsec. (c)(1). Pub. L. 102-83, § 5(c)(1), substituted "2301, 2302, 2303, 2306, or 2308" for "901, 902, 903, 906, or 908".

Subsec. (c)(3). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

1988—Subsec. (a)(4), (5). Pub. L. 100-322, § 411(b), struck out "(but only with respect to fiscal year 1987)" before period at end.

Subsec. (d). Pub. L. 100-322, § 411(c), substituted "a report of the Director of the Office of Management and Budget" for "a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office".

1987—Subsec. (a)(6). Pub. L. 100-198, § 12(a)(1), added par. (6).

Subsec. (c)(2). Pub. L. 100-198, § 12(a)(3), substituted "31, 34, 35, or 36" for "34, or 36".

Subsecs. (e) to (g). Pub. L. 100-198, § 12(a)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: "If a final order issued by the President pursuant to a law providing for the cancellation of loan guarantee commitments imposes a limitation on the total amount of loans that may be guaranteed under chapter 37 of this title in any fiscal year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a monthly report (not later than the 10th day of each month during the remainder of such fiscal year following the issuance of such final order) providing the following information:

"(1) The total amount of the loans for which commitments of guarantees were made under such chapter during the preceding month.

"(2) The total amount of the loans for which commitments were made during the fiscal year through the end of such preceding month.

"(3) The Administrator's estimates as to the total amounts of the loans for which commitments would, in the absence of any limits on such commitments or

guarantees, be made during (A) the month in which the report is required to be submitted, and (B) the succeeding months of the fiscal year."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-315, title II, §2202(d), Jan. 5, 2021, 134 Stat. 4985, provided that: "The amendments made by this section [amending this section and sections 2302 to 2304, 2307, 2308, and 5101 of this title and section 3810 of Title 50, War and National Defense] shall apply to deaths that occur on or after the date that is two years after the date of the enactment of this Act [Jan. 5, 2021]."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-198, §12(b), Dec. 21, 1987, 101 Stat. 1325, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on November 19, 1987."

EFFECTIVE DATE

Pub. L. 99-576, title VI, §601(b), Oct. 28, 1986, 100 Stat. 3289, provided that: "Section 113 of title 38, United States Code (as added by subsection (a)), shall apply with respect to a sequestration order issued, or a sequestration law enacted, for a fiscal year after fiscal year 1986."

RESTORATION OF CERTAIN REVOLVING FUNDS

Pub. L. 100-322, title IV, §411(a), May 20, 1988, 102 Stat. 547, provided that:

"(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576) [set out as a note above], section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985.

"(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act [May 20, 1988], the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph."

§ 114. Multiyear procurement

(a) The Secretary may enter into a multiyear contract for the procurement of supplies or services if the Secretary makes each of the following determinations:

(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

- (A) reducing costs;
- (B) achieving economies in contract administration or in any other Department activities;
- (C) increasing quality of performance by or service from the contractors; or
- (D) encouraging effective competition.

(3) During the proposed contract period—

- (A) there will be a continuing or recurring need for the supplies or services being procured;
- (B) there is not a substantial likelihood of substantial changes in the need for such sup-

plies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

(C) the specifications for the supplies or services are expected to be reasonably stable.

(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Secretary pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Secretary determines that, in light of other funding needs involved in the operation of Department programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Secretary shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.