

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.)

#### 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

(a) IN GENERAL.—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.

(b) TRANSFER OF DEPARTMENT OF THE INTERIOR LAND FOR USE AS A NATIONAL CEMETERY.—Notwithstanding section 204(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714(d)), if the Secretary and the Secretary of the Interior agree to a transfer under subsection (a) of any land for use by the Department as a national cemetery, the land shall be—

(1) withdrawn from all forms of appropriation under the public land laws, including the

mining laws, the mineral leasing laws, and the geothermal leasing laws;

(2) subject to valid existing rights;

(3) transferred to the administrative jurisdiction of the Secretary of Veterans Affairs; and

(4) deemed to be property (as defined in section 102(9) of title 40) for as long as the land remains under the administrative jurisdiction of the Secretary of Veterans Affairs.

(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; Pub. L. 117-355, §5, Jan. 5, 2023, 136 Stat. 6279.)

#### Editorial Notes

##### AMENDMENTS

2023—Pub. L. 117-355 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

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, devises, 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, counties, and tribal organizations for establishment, expansion, and improvement of veterans' cemeteries

(a)(1) Subject to subsections (b), (c), (d), and (g), the Secretary may make a grant to any State or county for the following purposes:

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

(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 or county receiving the grant shall contribute the excess of such costs over the grant.

(3) If a State or county 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 or county the total of all grants made under this section to such State or county 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 or county under this section to assist such State or county 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 Sec-

retary 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) Except as provided in subsection (i), 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 or county 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 or county 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 or county; and

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

(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 or county 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 or county.

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

(h)(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 construc-

tion 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.

(i)(1) The Secretary may not establish a condition for a grant under this section that restricts the ability of a State receiving such a grant to inter in a veterans' cemetery owned by that State any individual described in paragraph (2) solely by reason of the ineligibility of such individual for burial in an open national cemetery under the control of the National Cemetery Administration under section 2402(a) of this title.

(2) An individual described in this paragraph is the following:

(A) Any member of a reserve component of the Armed Forces who was discharged or released from service under conditions other than dishonorable or whose death occurs under conditions other than dishonorable while a member of such a reserve component.

(B) Any member of the Army National Guard or the Air National Guard who was discharged or released from service under conditions other than dishonorable or whose death occurs under conditions other than dishonorable while a member of the Army National Guard or the Air National Guard.

(C) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under conditions other than dishonorable while a member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force.

(D) Any spouse of any member described in subparagraphs (A) through (C).

(E) Any minor child or unmarried adult child (as such terms are defined in section 2402(a) of this title) of any member described in subparagraphs (A) through (C).

(j) The Secretary may not deny an application for a grant under this section solely on the basis that the State receiving such grant may use funds from such grant to expand, improve, operate, or maintain a veterans' cemetery in which interment of individuals described in subsection (i)(2) is allowed.

(k) For purposes of this section:

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

(2) 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; Pub. L. 117-103, div. CC, §102(a), Mar. 15, 2022, 136 Stat. 1109.)

### Editorial Notes

#### AMENDMENTS

2022—Subsec. (d)(2). Pub. L. 117-103, §102(a)(1), substituted "Except as provided in subsection (i), the Secretary may" for "The Secretary may".

Subsecs. (i) to (k). Pub. L. 117-103, §102(a)(2), (3), added subsecs. (i) and (j) and redesignated former subsec. (i) as (k).

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)" in introductory provisions.

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. (f)(3). Pub. L. 116-315, §2205(a)(4)(A), (B), redesignated par. (3) as (h). Such subsec. (h) subsequently redesignated (i).

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).

Pub. L. 116-315, §2205(a)(3), added subsec. (g).

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 (f)(3) by Pub. L. 116-315, §2205(a)(4)(A), was redesignated (i).

Pub. L. 116-315, §2205(a)(4), redesignated subsec. (f)(3) as (h) and subpars. (A) and (B) as pars. (1) and (2), respectively, and substituted "this section" for "this subsection" in introductory provisions. Subsec. (h) subsequently redesignated (i).

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).

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; APPLICABILITY

Pub. L. 116-315, title II, § 2205(c), Jan. 5, 2021, 134 Stat. 4987, as amended by Pub. L. 117-16, § 7(b)(2), June 8, 2021, 135 Stat. 285, provided that: "The amendments made by this section [amending this section] shall take on [sic] effect on the date of the enactment of this Act [Jan. 5, 2021] and shall apply with respect to grants applications submitted on or after the date that is two years after the date of the enactment of this Act..[sic]"

##### 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]."

##### PROHIBITION ON ENFORCING CERTAIN CONDITIONS ON GRANTS FOR STATE VETERANS' CEMETERIES

Pub. L. 117-103, div. CC, § 102(b), Mar. 15, 2022, 136 Stat. 1110, provided that: "The Secretary of Veterans Affairs may not enforce a condition on a grant described in subsection (i)(1) of section 2408 of title 38, United States Code, as added by subsection (a), that was established before the date of the enactment of this Act [Mar. 15, 2022]."

#### § 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;