''(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).

(Added Pub. L. 101–237, title V, § 502(a), Dec. 18, 1989, 103 Stat. 2093, § 1010; amended Pub. L. 102–54, § 14(b)(22), June 13, 1991, 105 Stat. 284; renumbered § 2410, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

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''.

§ 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—

(A) inter the remains of such person in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

(B) honor the memory of such person in a memorial area in a cemetery in the National Cemetery Administration (described in section 2403(a) of this title) or in such an area in Arlington National Cemetery (described in section 2409(a) of this title).

(2) In the case of a person described in subsection (b)(1) or (b)(2), the prohibition under paragraph (1) shall not apply unless written notice of a conviction referred to in subsection (b)(1) or (b)(2), as the case may be, is received by the appropriate Federal official before such official approves an application for the interment or memorialization of such person. Such written notice shall be furnished to such official by the Attorney General, in the case of a Federal capital crime, or by an appropriate State official, in the case of a State capital crime.

(b) A person referred to in subsection (a) is any of the following:

(1) A person who has been convicted of a Federal capital crime and whose conviction is final (other than a person whose sentence was commuted by the President).

(2) A person who has been convicted of a State capital crime and whose conviction is final (other than a person whose sentence was commuted by the Governor of a State).

(3) A person who—

(A) is found (as provided in subsection (c)) to have committed a Federal capital crime or a State capital crime, but

(B) has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution.

(c) A finding under subsection (b)(3) shall be made by the appropriate Federal official. Any such finding may only be made based upon a showing of clear and convincing evidence, after an opportunity for a hearing in a manner prescribed by the appropriate Federal official.

(d) For purposes of this section:

(1) The term ''Federal capital crime'' means an offense under Federal law for which a sentence of imprisonment for life or the death penalty may be imposed.

(2) The term ''State capital crime'' means, under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which a sentence of imprisonment for life or the death penalty may be imposed.

(3) The term ''appropriate Federal official'' means—

(A) the Secretary, in the case of the National Cemetery Administration; and

(B) the Secretary of the Army, in the case of Arlington National Cemetery.

(Added Pub. L. 105–116, § 1(a), Nov. 21, 1997, 111 Stat. 2381; amended Pub. L. 105–368, title IV,

§ 403(d)(1), Nov. 11, 1998, 112 Stat. 3339; Pub. L. 107–330, title II, § 202, Dec. 6, 2002, 116 Stat. 2824; Pub. L. 109–163, div. A, title VI, § 662(a), Jan. 6, 2006, 119 Stat. 3314.)

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109–163, § 662(a)(1)(A), substituted ''and whose conviction is final (other than a person whose sentence was commuted by the President)'' for ''for which the person was sentenced to death or life imprisonment''.

Subsec. (b)(2). Pub. L. 109–163, § 662(a)(1)(B), substituted ''and whose conviction is final (other than a person whose sentence was commuted by the Governor of a State)'' for ''for which the person was sentenced to death or life imprisonment without parole''.

Subsec. (d)(1). Pub. L. 109–163, § 662(a)(2)(A), substituted ''a sentence of imprisonment for life or the death penalty may be imposed'' for ''the death penalty or life imprisonment may be imposed''.

Subsec. (d)(2). Pub. L. 109–163, § 662(a)(2)(B), substituted ''a sentence of imprisonment for life or the death penalty may be imposed'' for ''the death penalty or life imprisonment without parole may be imposed''.

2002—Subsec. (a)(2). Pub. L. 107–330 substituted ''In the case of a person described in subsection (b)(1) or (b)(2), the prohibition'' for ''The prohibition'' and ''referred to in subsection (b)(1) or (b)(2), as the case may be,'' for ''or finding under subsection (b)''.

1998—Pub. L. 105–368, § 403(d)(1), substituted ''Administration'' for ''System'' in section catchline.

Subsecs. (a)(1)(A), (B), (d)(3)(A). Pub. L. 105–368, § 403(d)(1), substituted ''Administration'' for ''System''.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–163 applicable with respect to funerals and burials that occur on or after Jan. 6, 2006, see section 662(e) of Pub. L. 109–163, set out as a note under section 985 of Title 10, Armed Forces.

EFFECTIVE DATE

Section 1(c) of Pub. L. 105–116 provided that: ''Section 2411 of title 38, United States Code, as added by subsection (a), shall apply with respect to applications for interment or memorialization made on or after the date of the enactment of this Act [Nov. 21, 1997].''

REGULATIONS

Pub. L. 109–163, div. A, title VI, § 662(d)(1), Jan. 6, 2006, 119 Stat. 3315, provided that: ''The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.''

§ 2412. Lease of land and buildings

(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the ''National Cemetery Administration Facilities Operation Fund'' (in this section referred to as the ''Fund'').

(2) The Fund shall consist of the following:

(A) Proceeds from the lease of land or buildings under this section.

(B) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

(C) Any other amounts appropriated to or otherwise authorized for deposit in the Fund by law.

(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

(4) Amounts in the Fund shall remain available until expended.

(Added Pub. L. 108–454, title VI, § 602(a), Dec. 10, 2004, 118 Stat. 3623.)

§ 2413. Prohibition on certain demonstrations at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery

(a) PROHIBITION.—No person may carry out—

(1) a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

(2) with respect to such a cemetery, a demonstration during the period beginning 60 minutes before and ending 60 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

(A)(i) takes place within 150 feet of a road, pathway, or other route of ingress to or egress from such cemetery property; and

(ii) includes, as part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral, memorial service, or ceremony; or

(B) is within 300 feet of such cemetery and impedes the access to or egress from such cemetery.

(b) DEMONSTRATION.—For purposes of this section, the term ''demonstration'' includes the following:

(1) Any picketing or similar conduct.

(2) Any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony.