

TO AMEND TITLE 38, UNITED STATES CODE, TO EXPAND THE ELIGIBILITY FOR HEADSTONES, MARKERS, AND MEDALLIONS FURNISHED BY THE SECRETARY OF VETERANS AFFAIRS FOR DECEASED INDIVIDUALS WHO WERE AWARDED THE MEDAL OF HONOR AND ARE BURIED IN PRIVATE CEMETERIES

NOVEMBER 14, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 4757]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4757) to amend title 38, United States Code, to expand the eligibility for headstones, markers, and medallions furnished by the Secretary of Veterans Affairs for deceased individuals who were awarded the Medal of Honor and are buried in private cemeteries, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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AMENDMENT

The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. EXPANSION OF ELIGIBILITY FOR HEADSTONES, MARKERS, AND MEDALLIONS FOR MEDAL OF HONOR RECIPIENTS.

Section 2306(d) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) In carrying out this subsection with respect to a deceased individual described in subparagraph (C), the Secretary shall furnish, upon request, a headstone or marker under paragraph (1) or a medallion under paragraph (4) that signifies the deceased’s status as a Medal of Honor recipient.

“(B) If the Secretary furnished a headstone, marker, or medallion under paragraph (1) or (4) for a deceased individual described in subparagraph (C) that does not signify the deceased’s status as a Medal of Honor recipient, the Secretary shall, upon request, replace such headstone, marker, or medallion with a headstone, marker, or medallion, as the case may be, that so signifies the deceased’s status as a Medal of Honor recipient.

“(C) A deceased individual described in this subparagraph is a deceased individual who—

“(i) served in the Armed Forces on or after April 6, 1917;

“(ii) is eligible for a headstone or marker furnished under paragraph (1) or a medallion furnished under paragraph (4) (or would be so eligible for such headstone, marker, or medallion but for the date of the death of the individual); and

“(iii) was awarded the Medal of Honor (including posthumously).”.

SEC. 2. EXPANSION OF PRESIDENTIAL MEMORIAL CERTIFICATE PROGRAM.

(a) IN GENERAL.—Section 112(a) of title 38, United States Code, is amended by inserting after “conditions,” the following: “persons eligible for burial in a national cemetery by reason of paragraph (2), (3), or (7) of section 2402(a) of this title.”.

(b) APPLICATION.—The amendment made by subsection (a) shall apply with respect to the death of a person eligible for burial in a national cemetery by reason of paragraph (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.

SEC. 3. TRANSPORTATION OF DECEASED VETERANS TO VETERANS’ CEMETERIES.

(a) IN GENERAL.—Subsection (a) of section 2308 of title 38, United States Code, is amended to read as follows:

“(a) IN GENERAL.—(1) The Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran described in paragraph (1) or (2) of subsection (b) for burial in a national cemetery or a covered veterans’ cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran’s last place of residence in which burial space is available.

“(2) The Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran described in subsection (b)(3) for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran’s last place of residence in which burial space is available.”.

(b) COVERED VETERANS’ CEMETERY DEFINED.—Section 2308 of such title is amended by adding at the end the following new subsection:

“(c) COVERED VETERANS’ CEMETERY DEFINED.—In this section, the term ‘covered veterans’ cemetery’ means, with respect to a deceased veteran described in subsection (b), a veterans’ cemetery owned by a State or a tribal organization (as defined in section 3765(4) of this title) in which the deceased veteran is eligible to be buried.”.

(c) CONFORMING AMENDMENT.—Section 2308 of such title is amended in the section heading by adding at the end the following: “**or a veterans’ cemetery**”.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of such title is amended by striking the item relating to section 2308 and inserting the following new item:

“2308. Transportation of deceased veteran to a national cemetery or a veterans’ cemetery.”.

Amend the title so as to read:

A bill to amend title 38, United States Code, to expand certain benefits related to the burial of deceased veterans, and for other purposes.

PURPOSE AND SUMMARY

H.R. 4757 was introduced by Representative Jeff Miller of Florida on March 16, 2016. H.R. 4757, as amended, was ordered to be favorably reported to the full House on September 21, 2016. H.R. 4757, as amended, incorporates text of H.R. 4757, as well as provisions from H.R. 4758, as amended, and H.R. 4759, all introduced by Representative Jeff Miller of Florida.

H.R. 4757, as amended, would (1) allow the Department of Veterans Affairs (VA) to provide a headstone, marker, or medallion for deceased veterans who were awarded the Medal of Honor; (2) establish that families of certain deceased members of the National Guard and Reserve would be eligible to receive a Presidential Memorial Certificate; and (3) authorize VA to pay the cost of transportation of deceased veterans for burial in the nearest veterans' cemetery owned by a State or tribal organization in which the deceased veteran is eligible to be buried.

BACKGROUND AND NEED FOR LEGISLATION

Section 1—Expansion of eligibility for headstones, markers, and medallions for Medal of Honor recipients

Current law prohibits the Secretary from furnishing a distinctive headstone, marker, or medallion for Medal of Honor recipients who are buried in private cemeteries. This bill would expand the Secretary's authorization to provide special markers for the graves of those who have received the nation's highest award for valor and who are not laid to rest in national cemeteries.

Such headstone, marker, or medallion would be provided on request for deceased Medal of Honor recipients who served in the Armed Forces on or after April 6, 1917, the date the United States entered World War I. The bill limits the special markers for deceased Medal of Honor recipients who served on or after April 6, 1917, to help protect antique headstones and preserve the vista of historic cemeteries.

Section 2—Expansion of Presidential Memorial Certificate program

VA sends a Presidential Memorial Certificate that expresses the nation's recognition and gratitude of military service to the family members of a deceased veteran. The law limits Presidential Memorial Certificates to the families of those who served in the regular armed services, or National Guard and Reserve members who were called to active duty.

This section would expand eligibility for a Presidential Memorial Certificate to certain members of the Reserve component of the Armed Forces, and the Army National Guard or the Air National Guard. Under H.R. 4757, as amended, an individual would be eligible for such Presidential Memorial Certificate if he or she is eligible for interment or inurnment in national cemeteries, regardless of the individual's date of death.

Section 3—Transportation of deceased veterans to veterans' cemeteries

Current law only allows VA to pay the cost of transporting the remains of a deceased veteran to the nearest open national cemetery. This provision would prevent families of deceased veterans from being financially penalized if they choose to lay their loved one to rest in a State or tribal veterans' cemetery, rather than in a national cemetery.

This section would authorize VA to pay the costs associated with transporting the remains of a deceased veteran to the State or tribal veterans' cemetery nearest to the deceased veteran's last residence, if the veteran is eligible to be buried in such State or tribal cemetery. The bill limits such payment to no more than the cost of transportation to an open national cemetery nearest to the veteran's last place of residence.

HEARINGS

On April 13, 2016, the Subcommittee on Disability Assistance and Memorial Affairs conducted a legislative hearing on various bills introduced during the 114th Congress, including H.R. 4757, H.R. 4758, and H.R. 4759, all of which are included in H.R. 4757, as amended. The following witnesses testified:

The Honorable Jeff Miller of Florida, U.S. House of Representatives; the Honorable Corrine Brown of Florida, U.S. House of Representatives; The Honorable Ryan Costello of Pennsylvania, U.S. House of Representatives; The Honorable Mia Love of Utah, U.S. House of Representatives; Mr. David R. McLenachen, Deputy Under Secretary for Disability Assistance, Veterans Benefits Administration, U.S. Department of Veterans Affairs, accompanied by: Mr. Matt Sullivan, Deputy Under Secretary of Finance and Planning and CFO, National Cemetery Administration, U.S. Department of Veterans Affairs; Mr. Patrick K. Hallinan, Executive Director, Army National Military Cemeteries, Department of the Army; Mr. Carl Blake, Associate Executive Director for Government Relations, Paralyzed Veterans of America; Mr. Aleks Morosky, Deputy Director, National Legislative Service, Veterans of Foreign Wars of the United States; Mr. Paul R. Varela, Assistant National Legislative Director, Disabled American Veterans; Ms. Elizabeth Davis, Advocate for Survivors' Benefits; and Mr. Edward G. Lilley, Team Leader for Health Policy, National Veterans Affairs and Rehabilitation Division, The American Legion.

A statement for the record was submitted by the following:

Mr. John Rowan, National President, Vietnam Veterans of America.

SUBCOMMITTEE CONSIDERATION

On May 11, 2016, the Subcommittee on Disability Assistance and Memorial Affairs met in open markup session, a quorum being present, and ordered H.R. 4757, as amended, favorably forwarded to the full Committee by voice vote. During consideration of H.R. 4757, the following amendment in the nature of a substitute was considered:

An Amendment in the Nature of a Substitute offered by Ms. Titus of Nevada, which added a provision requiring the Secretary of the Army to reserve 100 in-ground burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor. This provision would terminate on the date in which the Secretary of the Army submits a report to Congress regarding the capacity of Arlington National Cemetery. The Amendment in the Nature of a Substitute was agreed to by voice vote.

COMMITTEE CONSIDERATION

On September 21, 2016, the full Committee met in open markup session, a quorum being present, and ordered H.R. 4757, as amended, favorably reported to the House of Representatives by voice vote. During consideration of the bill, the following amendment was considered:

An Amendment in the Nature of a Substitute was offered by Representative Jeff Miller of Florida, which removed the provision requiring the Secretary of the Army to reserve 100 in-ground burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor. The Amendment in the Nature of a Substitute also incorporated the text of H.R. 4757, as introduced; H.R. 4758, as amended; and, H.R. 4759. The Amendment in the Nature of a Substitute was agreed to by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, there were no recorded votes taken on amendments or in connection with ordering H.R. 4757, as amended, reported to the House. A motion by Acting Ranking Member Mark Tankano to report H.R. 4757, as amended, favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance goals and objectives for this legislation:

The Secretary will use this authority to furnish, upon request, a headstone, marker, or medallion that signifies a deceased veteran's status as Medal of Honor recipient for such veterans who are buried in a private cemetery; expand the eligibility for Presidential Memorial Certificates; and pay the cost of transportation of a deceased veteran to the nearest national veterans' cemetery, nearest State veterans' cemetery, or nearest tribal cemetery.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 4757, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 4757, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 4757, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 13, 2016.

Hon. JEFF MILLER,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4757, a bill to amend title 38, United States Code, to expand certain benefits related to the burial of deceased veterans, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 4757—A bill to amend title 38, United States Code, to expand certain benefits related to the burial of deceased veterans, and for other purposes

Summary: H.R. 4757 would modify burial programs administered by the Department of Veterans Affairs (VA) and would make certain deceased veterans eligible for Presidential Memorial Certificates. CBO estimates that enacting H.R. 4757 would increase direct spending by \$36 million over the 2017–2026 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would not affect revenues.

In addition, CBO estimates that implementing the bill would have discretionary costs totaling less than \$500,000 over the 2017–2021 period; that spending would be subject to the availability of appropriated funds.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4757 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 4757 is shown in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

	By fiscal year, in millions of dollars—											2017– 2021	2017– 2026	
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026				
INCREASES IN DIRECT SPENDING ^a														
Estimated Budget Authority	1	3	3	3	4	4	4	4	4	5	15	36		
Estimated Outlays	1	3	3	3	4	4	4	4	4	5	15	36		

Note: Components may not sum to totals because of rounding.

^aIn addition to the changes in direct spending shown above, implementing H.R. 4757 would have discretionary costs totaling less than \$500,000 over the 2017–2021 period.

Basis of estimate: For this estimate, CBO assumes that H.R. 4757 will be enacted before the end of calendar year 2016, that appropriations will reflect the estimated changes each year, and that outlays will follow historical spending patterns for the affected programs.

Direct spending

Two provisions in H.R. 4757 would affect direct spending by modifying burial benefits for veterans. CBO estimates that enacting H.R. 4757 would increase direct spending by \$36 million over the 2017–2026 period.

Transportation of Deceased Veterans to Cemeteries. Section 3 would allow VA to pay for the costs of transporting the remains of deceased veterans to state or tribal cemeteries up to the amount it would cost to transport those remains to the nearest national cemetery. Under current law, VA may pay the costs for transporting the remains of deceased veterans to the nearest national cemetery.

Over the 2011–2014 period, VA paid to transport the remains of about 20 percent of the veterans who were buried in national cemeteries. The average amount paid for that service in 2015 was about \$600. CBO expects that, under this provision, requests for payment of transportation costs to state or tribal cemeteries would be made at a similar rate and that the average cost would be the same.

The number of veterans buried in state or tribal cemeteries grew from 21,300 in 2011 to 23,200 in 2014. CBO expects that rate of growth to continue over the 2017–2026 period and estimates that the number of such burials will increase from 24,600 in 2017 to 31,900 in 2026. CBO expects that VA would pay to transport remains for about 20 percent of those burials, or about 4,900 in 2017

increasing to about 6,400 in 2026. The average cost of transporting a veteran's remains grew from \$565 in 2011 to \$601 in 2015 and CBO estimates a similar rate of growth in the average cost over the 2017–2026 period, leading to an average cost of transport per veteran of \$762 in 2026.

On that basis, CBO estimates that enacting section 3 would increase direct spending by \$36 million over the 2017–2026 period.

Burial Markers for Medal of Honor Recipients. Section 1 would make all Medal of Honor recipients who died after April 6, 1917, eligible for a headstone, marker, or medallion that signifies the veteran's status as a recipient of the Medal of Honor. Because of the small number of individuals who would be made eligible under section 4 (about 1,100) and the small average cost per headstone, marker, or medallion (about \$200 for a headstone or marker and \$34 for a medallion in 2015), CBO estimates that enacting section 1 would increase direct spending by less than \$500,000 over the 2017–2026 period.

Spending subject to appropriation

Section 2 would make certain deceased veterans who served in the National Guard or Reserves eligible to receive a Presidential Memorial Certificate. According to VA, the average cost in 2015 for a Presidential Memorial Certificate was \$1. The application rate of those currently eligible for the certificate is quite low. On that basis, CBO estimates that the cost for implementing section 2 would be less than \$500,000 over the 2017–2021 period; such spending would be subject to the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

	By fiscal year, in millions of dollars—											2017– 2021	2017– 2026
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026			
NET INCREASE OR DECREASE (–) IN THE [ON-BUDGET] DEFICIT													
Statutory Pay-As-You-Go Im- pact	1	3	3	3	4	4	4	4	4	5	15	36	

Note: Components may not sum to totals because of rounding.

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: H.R. 4757 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On September 9, 2016, CBO transmitted a cost estimate for H.R. 4782, the Veterans' Compensation Cost-of-Living Adjustment Act of 2016, as ordered reported by the House Committee on Veterans' Affairs on May 18, 2016. H.R. 4757 contains sections that are similar to sections 3, 4, and 5 of H.R. 4782 and the estimated costs for those provisions are the same.

Estimate prepared by: Federal Costs: Dwayne M. Wright; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 4757, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 4757, as amended.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 4757, as amended, is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 4757, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 4757, as amended, establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that H.R. 4757, as amended, contains no directed rule making that would require the Secretary to prescribe regulations.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1—Expansion of eligibility for headstones, markers, and medallions for Medal of Honor recipients

Section 1 would authorize VA to provide a distinctive headstone, marker, or medallion to adorn the gravesites of Medal of Honor recipients who served in the Armed Forces on or after April 6, 1917.

Section 2—Expansion of Presidential Memorial Certificate program

Section 2(a) would expand eligibility for a Presidential Memorial Certificate to members of the Reserve component of the Armed Forces, and the Army National Guard or the Air National Guard who are eligible to be buried in a national cemetery.

Section 2(b) would establish that this Section would apply with respect to the death of an eligible person occurring before, on, or after the date of enactment of this Act.

Section 3—Transportation of deceased veterans to veterans' cemeteries

Section 3(a) would authorize VA to pay the cost of transporting the remains of a deceased veteran to a covered veterans' cemetery. Such payment would not exceed the cost of transportation to the national cemetery nearest to the veteran's last place of residence in which burial space is available.

Section 3(b) would define covered veterans' cemetery as a cemetery owned by a State or tribal organization, in which the deceased veteran is eligible to be buried.

Section 3(c) would provide a conforming amendment.

Section 3(d) would provide a clerical amendment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

* * * * *

§ 112. Presidential memorial certificate program

(a) At the request of the President the Secretary may conduct a program for honoring the memory of deceased veterans, discharged under honorable conditions, *persons eligible for burial in a national cemetery by reason of paragraph (2), (3), or (7) of section 2402(a) of this title*, and persons who died in the active military, naval, or air

service, 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.

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PART II—GENERAL BENEFITS

* * * * *

CHAPTER 23—BURIAL BENEFITS

Sec.
2301. Flags.

* * * * *

[2308. Transportation of deceased veteran to a national cemetery.]

2308. Transportation of deceased veteran to a national cemetery or a veterans' cemetery.

* * * * *

§ 2306. Headstones, markers, and burial receptacles

(a) The Secretary shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 2402(a)(4), (5), and (6) of this title.

(3) Soldiers of the Union and Confederate Armies of the Civil War.

(4) Any individual described in section 2402(a)(5) of this title who is buried in a veterans' cemetery owned by a State.

(5) Any individual 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.

(b)(1) The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating an eligible individual whose remains are unavailable. Such a headstone or marker shall be furnished for placement in a national cemetery area reserved for that purpose under section 2403 of this title, a veterans' cemetery owned by a State, or, in the case of a veteran, in a State, local, or private cemetery.

(2) For purposes of paragraph (1), an eligible individual is any of the following:

(A) A veteran.

- (B) The spouse or surviving spouse of a veteran.
 - (C) An eligible dependent child of a veteran.
- (3) For purposes of paragraph (1), the remains of an individual shall be considered to be unavailable if the individual's remains—
- (A) have not been recovered or identified;
 - (B) were buried at sea, whether by the individual's own choice or otherwise;
 - (C) were donated to science; or
 - (D) were cremated and the ashes scattered without interment of any portion of the ashes.
- (4) For purposes of this subsection:
- (A) The term "veteran" includes an individual who dies in the active military, naval, or air service.
 - (B) The term "surviving spouse" includes a surviving spouse who had a subsequent remarriage.
- (5) For purposes of this section, the term "eligible dependent child" means a child—
- (A) who is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or
 - (B) who is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.
- (c) A headstone or marker furnished under subsection (a), (b), or (d) of this section may be of any material, including but not limited to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Secretary (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.
- (d)(1) The Secretary shall furnish, when requested, an appropriate Government headstone or marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a headstone or marker may be furnished only if the individual making the request for the Government headstone or marker certifies to the Secretary that the headstone or marker will be placed on the grave for which the headstone or marker is requested, or, if placement on the grave is impossible or impracticable, as close as possible to the grave within the grounds of the cemetery in which the grave is located.
- (2) Any headstone or marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.
- (3) The headstone or marker furnished under this subsection shall be the headstone or marker selected by the individual making the request from among all the headstones and markers made available by the Government for selection.
- (4) In lieu of furnishing a headstone or marker under this subsection, the Secretary may furnish, upon request, a medallion or other device of a design determined by the Secretary to signify the

deceased's status as a veteran, to be attached to a headstone or marker furnished at private expense.

(5)(A) In carrying out this subsection with respect to a deceased individual described in subparagraph (C), the Secretary shall furnish, upon request, a headstone or marker under paragraph (1) or a medallion under paragraph (4) that signifies the deceased's status as a Medal of Honor recipient.

(B) If the Secretary furnished a headstone, marker, or medallion under paragraph (1) or (4) for a deceased individual described in subparagraph (C) that does not signify the deceased's status as a Medal of Honor recipient, the Secretary shall, upon request, replace such headstone, marker, or medallion with a headstone, marker, or medallion, as the case may be, that so signifies the deceased's status as a Medal of Honor recipient.

(C) A deceased individual described in this subparagraph is a deceased individual who—

(i) served in the Armed Forces on or after April 6, 1917;

(ii) is eligible for a headstone or marker furnished under paragraph (1) or a medallion furnished under paragraph (4) (or would be so eligible for such headstone, marker, or medallion but for the date of the death of the individual); and

(iii) was awarded the Medal of Honor (including posthumously).

(e)(1) The Secretary of Veterans Affairs shall provide an outer burial receptacle for each new grave in an open cemetery under the control of the National Cemetery Administration in which remains are interred in a casket. The Secretary of the Army may provide an outer burial receptacle for such a grave in the Arlington National Cemetery.

(2) The use of outer burial receptacles in a cemetery under the control of the National Cemetery Administration or in the Arlington National Cemetery shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs or Secretary of the Army, respectively.

(3) Regulations or procedures under paragraph (2) may specify that—

(A) an outer burial receptacle other than a grave liner be provided in lieu of a grave liner at the election of the survivors of the interred veteran; and

(B) if an outer burial receptacle other than a grave liner is provided in lieu of a grave liner upon an election of such survivors, such survivors be required—

(i) to pay the amount by which the cost of the outer burial receptacle exceeds the cost of the grave liner that would otherwise have been provided in the absence of the election; and

(ii) to pay the amount of the administrative costs incurred by the Secretary (or, with respect to Arlington National Cemetery, the Secretary of the Army) in providing the outer burial receptacle in lieu of such grave liner.

(4) Regulations or procedures under paragraph (2) may provide for the use of a voucher system, or other system of reimbursement approved by the Secretary (or, with respect to Arlington National Cemetery, the Secretary of the Army), for payment for outer burial

receptacles other than grave liners provided under such regulations or procedures.

(f) The Secretary may furnish a casket or urn, of such quality as the Secretary considers appropriate for a dignified burial, for burial in a national cemetery of a deceased veteran in any case in which the Secretary—

(1) is unable to identify the veteran's next of kin, if any; and

(2) determines that sufficient resources for the furnishing of a casket or urn for the burial of the veteran in a national cemetery are not otherwise available.

(g)(1) When the Secretary has furnished a headstone or marker under subsection (a) for the unmarked grave of an individual, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate headstone or marker under that subsection for the surviving spouse or eligible dependent child of such individual.

(2) When the Secretary has furnished a memorial headstone or marker under subsection (b) for purposes of commemorating a veteran or an individual who died in the active military, naval, or air service, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse or eligible dependent child of such individual.

(h)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

(3) A headstone or marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

(4) A casket or urn may not be furnished under subsection (f) for burial of a person described in section 2411(b) of this title.

* * * * *

§ 2308. Transportation of deceased veteran to a national cemetery or a veterans' cemetery

[(a) IN GENERAL.—The Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran described in subsection (b) for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.]

(a) *IN GENERAL.—(1) The Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran described in paragraph (1) or (2) of subsection (b) for burial in a national cemetery or a covered veterans' cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.*

(2) *The Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran described in subsection (b)(3) for burial in a national cemetery. Such payment shall not exceed the cost of*

transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.

(b) **DECEASED VETERAN DESCRIBED.**—A deceased veteran described in this subsection is any of the following veterans:

(1) A veteran who dies as the result of a service-connected disability.

(2) A veteran who dies while in receipt of disability compensation (or who but for the receipt of retirement pay or pension under this title, would have been entitled to compensation).

(3) A veteran whom the Secretary determines is eligible for funeral expenses under section 2302 of this title by virtue of the Secretary determining that the veteran has no next of kin or other person claiming the body of such veteran pursuant to subsection (a)(2)(A) of such section.

(c) **COVERED VETERANS' CEMETERY DEFINED.**—*In this section, the term "covered veterans' cemetery" means, with respect to a deceased veteran described in subsection (b), a veterans' cemetery owned by a State or a tribal organization (as defined in section 3765(4) of this title) in which the deceased veteran is eligible to be buried.*

