

PUBLIC LAW 116-315
THE VETERANS HEALTH CARE AND BENEFITS IMPROVEMENT ACT OF 2020

1. PURPOSE/REASON FOR ISSUE: This notice provides information about provisions in Public Law 116-315, Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) that are of significance to the Department of Veterans Affairs (VA) National Cemetery Administration (NCA). Of the seven provisions that affect NCA programs, five were based on NCA legislative proposals. Where applicable, this notice indicates the provisions to be implemented by the Veterans Benefits Administration (VBA).

2. SUMMARY OF NCA-RELEVANT SECTIONS IN P.L. 116-315 AND ACTIONS:

a. Section 2201 Transportation of deceased veterans to veterans' cemeteries.

Amends Section 2308 of title 38 United States Code (38 U.S.C. § 2308) to expand the transportation allowance to State and Tribal Veterans cemeteries that receive a Veterans Cemetery Grant Program (VCGP) grant under 38 U.S.C. § 2408. Amendments made by this section take effect January 5, 2023.

This provision is based on one of NCA's fiscal year (FY) 2021 legislative proposals. Prior to enactment, VA was authorized to pay the cost of transportation of a Veteran, who has no next of kin or other person claiming the remains of such Veteran, to the nearest VA national cemetery, but not to cover costs for transportation to a VCGP State or Tribal Veterans cemetery. This provision allows organizations, entities, and individuals who pay for the costs to transport the unclaimed remains of Veterans to apply for reimbursement of transportation expenses in their efforts to ensure unclaimed remains of Veterans receive proper burial — whether in a VA national cemetery or a VCGP State or Tribal Veterans cemetery. This provision will be implemented by VBA.

b. Section 2202 Increase in Certain Funeral Benefits Under Laws Administered by the Secretary of Veterans Affairs.

Amends 38 U.S.C. §§ 2302 and 2303 to expand funeral expenses and the plot allowance for those who die from non-service-connected disabilities. Benefits in this section are administered by VBA and have no direct impact on NCA. This provision will be implemented by VBA.

c. Section 2203 Outer burial receptacles for each new grave in cemeteries that are the subjects of certain grants made by the Secretary of Veterans Affairs.

Amends 38 U.S.C. § 2306(e) to expand the outer burial receptacle (OBR) benefit to VCGP State and Tribal Veterans cemeteries. This provision will provide a commensurate OBR benefit for any casketed gravesite for eligible Veterans and their family members interred in VCGP State and Tribal Veterans cemeteries. Amendments made by this section take effect January 5, 2023.

This provision is based on one of NCA's FY 2021 legislative proposals. Prior to its enactment, VA was only authorized to provide an OBR for any new casketed gravesite in a VA national cemetery.

NCA will implement this program by amending section 39.629 of title 38, Code of Federal Regulations (38 CFR 39.629) to address provision of OBRs for graves in VCGP State and Tribal cemeteries and make other changes to reflect current practices. When this program takes effect January 5, 2023, NCA will update relevant public-facing websites to reflect this new authority.

d. Section 2204 Provision of inscriptions for spouses and children on certain headstones and markers furnished by the Secretary of Veterans Affairs.

Amends 38 U.S.C. § 2306 to allow VA to inscribe information about the Veteran's spouse or dependent child, if feasible and upon request, on a Veteran's government-furnished headstone or marker for placement on a gravesite in a cemetery that is not a VA national cemetery, or a VA grant-funded Veterans' cemetery. This provision was based on one of NCA's FY 2021 legislative proposals. It applies to an individual who dies on or after October 1, 2019. Prior to its enactment, VA could inscribe information about a Veteran's loved one on a government-furnished headstone or marker in a national cemetery, but not those in private and local government cemeteries

This provision is effective immediately and NCA will apply the inscription authority to qualifying headstone or marker requests. Additionally, NCA will amend NCA Directive 3350, Inscriptions for Government-Furnished Headstones, Markers, and Niche Covers and VA Form 40-1330, Claim for Standard Government Headstone or Marker to implement this new authority.

e. Section 2205 Aid to counties for establishment, expansion, and improvement of veterans' cemeteries.

Amends 38 U.S.C. § 2308 to authorize VA to provide aid to counties to establish, expand, improve Veterans cemeteries. Counties will be eligible to participate in the VCGP only if the State in which a county is located has no State or Tribal veterans' cemetery, the State or Tribe is not in receipt of an establishment grant, the State or Tribe has not applied for a cemetery grant in the previous year, and the county demonstrates it has the resources to operate and maintain a veterans' cemetery owned by the county. If a county and State or Tribe from the State in which the county is located both apply for a grant in the same year, VA will give priority to State or the Tribe.

NCA will implement this program by amending relevant sections in 38 CFR Part 39. When this program becomes effective January 5, 2023, NCA will update relevant public-facing websites to reflect this new authority.

f. Section 2206 Increase in maximum amount of grants to States, counties, and tribal organizations for operating and maintaining veterans' cemeteries.

Amends 38 U.S.C. § 2408(e)(2) to increase to \$10 million the annual statutory limit on operation and maintenance grants that VA may award to VCGP State, County and Tribal Veterans cemeteries. This provision is effective immediately and it is based on one of NCA's FY 2021 legislative proposals.

NCA will implement in 38 CFR 39.3(c) and 39.80(a)(2) and (b) the statutory increase in the maximum amount of funds from \$5M to \$10M per fiscal year for operation and maintenance grants. Because this authority is effective immediately, NCA will update references to the operations and management grants on relevant public-facing webpages to reflect this new authority.

g. Section 2207 Provision of urns and commemorative plaques for remains of certain veterans whose cremated remains are not interred in certain cemeteries (national, state veterans', tribal, county, or private).

Amends 38 U.S.C. § 2306 to require the Secretary of Veterans Affairs (Secretary) to provide on request, in lieu of furnishing a headstone or marker, an urn or commemorative plaque for a deceased individual not already buried who served in the Armed Forces on or after April 6, 1917, and who is eligible for a headstone or marker, or would be eligible but for the date of death. If the Secretary furnishes an urn or commemorative plaque for an individual, the Secretary may not provide for such individual burial in a national cemetery or a headstone or marker. This section specifies that the Secretary shall prescribe regulations to carry out the amendment, which takes effect January 5, 2023.

NCA will amend 38 CFR Part 38 regulations to implement this new requirement to provide on request a commemorative plaque or urn in lieu of furnishing a headstone or marker for a deceased individual who meets the statutory requirements.

h. Section 2208. Training of State and Tribal veterans' cemetery personnel by National Cemetery Administration.

Amends 38 U.S.C. § 2408 to allow VCGP funds to be used for travel expenses, and up to four weeks of lodging, for employees of VCGP State and Tribal Veterans cemeteries.

This provision is based on one of NCA's FY 2021 legislative proposals. Employees who attend the training under this provision will be required to fulfill a service requirement to be determined by the Secretary. The section requires VA to submit subsequent reports to the House and Senate Committees on Veterans' Affairs. The reports are due on January 5, 2023 and January 5, 2026, and must include the following:

1. The attrition rate with respect to individuals who participate in the training;
2. A description of how VCGP State and Tribal Veterans cemeteries that used grants awarded for training have improved as a result of the training, according to the administrators of such cemeteries;
3. An identification of how many VCGP State and Tribal Veterans cemeteries used the authority in order to train individuals; and

4. The amount obligated or expended as a result of the new authority.

This provision is effective immediately. NCA will amend 38 CFR Part 39 regulations to implement this new use of grant funds for training of VCGP cemetery employees and will consider the need to develop regulatory criteria for the service requirement for trained employees. Additionally, NCA will develop guidance for appropriate authorities at the VCGP State or Tribal Veterans cemeteries for reporting attrition of individuals who participate in training, and for reporting improvements observed by cemeteries who have used the funds for training.

i. Section 2001 Revision of definition of Vietnam era for purposes of the laws administered by VA.

Amends 38 U.S.C. § 101(29)(A) by striking “February 28, 1961” and inserting “November 1, 1955” as the new date that marks the beginning of the Vietnam era. This section will require NCA to update the War Service Inscription Items guidance on the public-facing website.

j. Section 7002 Advisory Committee on Tribal and Indian Affairs.

Requires the Secretary to establish an advisory committee to provide advice and guidance to the Secretary on matters relating to Indian tribes, tribal organizations, and Native American Veterans. NCA defers to VA leadership’s implementation of this authority.

5. RESPONSIBLE OFFICE: NCA, Office of Finance and Planning, Legislative and Regulatory Service (42E), 810 Vermont Avenue, NW, Washington, DC 20420, is responsible for the contents of this notice.

6. EXPIRATION: This notice will be archived on the last day of March 2022.

/s/ Ronald E. Walters
Acting Under Secretary for Memorial Affairs

Distribution: Electronic