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Veterans' Benefits: Burial Benefits and National Cemeteries

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March 11, 2016

Congressional Research Service

7-5700

www.crs.gov

R41386

Summary

Burial benefits are nonmonetary and monetary benefits that eligible veterans receive for their military service. Servicemembers and veterans have been provided nonmonetary burial benefits since the Civil War and monetary burial benefits since World War I.

Eligible veterans and active duty members of the Armed Forces can be interred in national cemeteries and can receive government-furnished headstones or markers, and in their honor, next of kin can receive presidential memorial certificates and burial flags. Their spouses or surviving spouses, minor children, and, under certain conditions, unmarried adult children may also be buried in national cemeteries.

Department of Veterans Affairs (VA) burial allowances are partial reimbursements for eligible veterans' burial and funeral costs. The allowance amount provided depends on whether the veteran's death was service-connected, non-service-connected, or occurred in a VA facility. The veteran's next of kin is eligible for reimbursement if he or she paid for the veteran's burial or funeral and has not been reimbursed by another government agency or some other source, such as the deceased veteran's employer.

The development of national cemeteries began as a result of the increasing number of Civil War casualties. The National Cemetery Act of 1867 was the first major piece of legislation to provide funds for, and directives about, national cemeteries. Today, there are 131 national cemeteries, along with 33 soldiers' lots and monument sites, under the VA's jurisdiction.

This report provides a descriptive analysis of both nonmonetary and monetary burial benefits and national cemeteries. It addresses congressional and constituent issues (among other things), such as

- who is eligible to receive burial benefits?
- who can be buried in a national cemetery?
- what plans does the VA have to build new or expand existing national cemeteries? and
- what benefits does the VA provide?

These issues may be of particular interest to Congress due to the aging of the veteran population, the changes to eligibility requirements, and recent VA report findings and recommendations related to the establishment of national cemeteries.

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Introduction

The Department of Veterans Affairs (VA) provides a range of benefits and services to veterans who meet certain eligibility rules. VA benefits include hospital and medical care, disability compensation and pensions,¹ education,² vocational rehabilitation and employment services,³ assistance to homeless veterans,⁴ home loan guarantees,⁵ administration of life insurance as well as traumatic injury protection insurance for servicemembers, and death benefits that cover burial expenses.

The department carries out its programs nationwide through three administrations and the Board of Veterans Appeals (BVA). The Veterans Health Administration (VHA) is responsible for health care services and medical and prosthetic research programs. The Veterans Benefits Administration (VBA) is responsible for, among other things, providing compensation, pensions, and education assistance. The National Cemetery Administration (NCA)⁶ is responsible for maintaining national veterans' cemeteries; providing grants to states for establishing, expanding, or improving state veterans cemeteries; and providing headstones and markers for the graves of eligible persons, among other things.

Burial benefits are monetary and nonmonetary benefits that eligible veterans receive for their service in the Armed Forces. Over time, the size of national cemeteries and the burial benefits program have increased.

Veterans or active duty servicemembers eligible for nonmonetary burial benefits can be interred in national cemeteries and can receive government-furnished headstones or markers, and in their honor, the veteran's next of kin can receive presidential memorial certificates and burial flags. Their spouses or surviving spouses, minor children, and, under certain conditions, unmarried adult children may also be buried in national cemeteries.

Monetary burial benefits are partial reimbursements that the eligible veteran's next of kin can receive for burial and funeral costs.⁷ The amount of the reimbursement depends on whether the veteran's death was service-connected, non-service-connected, or occurred in a VA facility.⁸

¹ For a detailed description of disability compensation and pension programs, see CRS Report RL34626, *Veterans' Benefits: Disabled Veterans*, by Scott D. Szymendera et al.; and CRS Report RS22804, *Veterans' Benefits: Pension Benefit Programs*, by Scott D. Szymendera and Carol D. Davis.

² For a discussion of education benefits, see CRS Report R42785, *GI Bills Enacted Prior to 2008 and Related Veterans' Educational Assistance Programs: A Primer*, by Cassandra Dortch; and CRS Report R42755, *The Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill): Primer and Issues*, by Cassandra Dortch.

³ For details on the Department of Veterans' Affairs (VA's) vocational rehabilitation and employment program, see CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*, by Benjamin Collins.

⁴ For detailed information on homeless veterans programs, see CRS Report RL34024, *Veterans and Homelessness*, by Libby Perl.

⁵ For details on the home loan guarantee program, see CRS Report R42504, *VA Housing: Guaranteed Loans, Direct Loans, and Specially Adapted Housing Grants*, by Libby Perl.

⁶ Established by the National Cemeteries Act of 1973 (P.L. 93-43).

⁷ Next of kin—recognized in order: surviving spouse; children, according to age; parents, including adoptive, stepparents, and foster parents; brothers or sisters, including half or step brothers and sisters; grandparents; grandchildren; uncles or aunts; nephews or nieces; cousins; or other lineal descendent. For more information, see 38 C.F.R. §38.633.

⁸ The term *service-connected* refers to deaths that occurred while on active duty or due to a condition incurred in or aggravated by active duty. The term *non-service-connected* refers to deaths that did not occur while on active duty or (continued...)

National cemeteries, beginning as a result of Civil War casualties, have expanded to include 131 cemeteries, as well as 33 soldiers' lots and monument sites,⁹ under the VA's jurisdiction.¹⁰

This report focuses on burial benefits provided by the VA. It does not discuss national cemeteries under the National Park Service, national cemeteries under the jurisdiction of the American Battle Monuments Commission, or Arlington National Cemetery, which is within the jurisdiction of the Department of the Army.

Veterans' Burial Benefits

Eligibility Requirements for Burial in a National Cemetery

Under current federal regulation, the following persons are eligible for burial in a VA national cemetery:¹¹

- members of the U.S. Armed Forces who die while on active duty;
- veterans discharged under conditions other than dishonorable (with certain exceptions);
- U.S. citizens who served in the armed forces of a U.S. ally during a time of war (service must have been terminated honorably by death or otherwise);
- certain members of Reserve Components and the Reserve Officer Training Corps (ROTC);¹²
- commissioned officers of the National Oceanic and Atmospheric Administration;
- commissioned officers of the Regular or Reserve Corps of the U.S. Public Health Service;
- World War II merchant mariners;
- any Filipino veteran who was a U.S. citizen or an alien lawfully admitted for permanent residence who was residing in the United States at the time of his or her death;
- spouse or surviving spouse of an eligible veteran; and
- minor and unmarried adult children of an eligible veteran.¹³

38 U.S.C. 2402¹⁴ provides that a natural or adoptive parent of an interred person who died from a training-related injury or was a hostile casualty¹⁵ is eligible for burial in a national cemetery if (1)

(...continued)

due to a condition that was not incurred in or aggravated by active duty.

⁹ U.S. Department of Veterans Affairs, National Cemetery Administration, "Facts About the National Cemetery Administration," at <http://www.cem.va.gov/cem/docs/factsheets/facts.pdf>.

¹⁰ The term *soldier's lots* refers to the section of a public or private cemetery reserved for the interment of soldiers. These sections are under the purview of the nearest national cemetery.

¹¹ 38 C.F.R. §38.620.

¹² In general, Reserve Components and Reserve Officer Training Corps (ROTC) members who are eligible for retired pay, or died from a disease or injury incurred during training, or died during travel to or from training. Members of Reserve Components called to active duty who serve the full period of activation are considered active duty members of the Armed Forces and are eligible for burial.

¹³ The veteran does not have to be deceased for the spouse or dependents to receive this benefit.

¹⁴ Originally passed as Section 502, Interment in National Cemeteries of Parents of Certain Deceased Veterans, the (continued...)

there is space at the gravesite of the interred person and (2) the interred person at the time of death did not have a spouse, surviving spouse, or child who is buried, or eligible to be buried, in a national cemetery.¹⁶ All other persons seeking interment in a national cemetery may be approved by the Secretary of Veterans Affairs.¹⁷

The VA does not provide cremation or funeral arrangement services, which must be made through private funeral providers or cremation offices. The Department of Defense (DOD) under 10 U.S.C. 1491 does provide, at the request of the family, a military honors ceremony that includes folding and presenting the U.S. burial flag and playing of “Taps.”¹⁸

Persons Ineligible for Burial in a National Cemetery

The following persons are not eligible for burial in a VA national cemetery:

- former spouses whose marriages to eligible individuals were terminated by annulment or divorce, if not otherwise eligible;
- family members other than those specified as eligible above;
- persons separated from the Armed Forces under dishonorable conditions or barred from veterans’ benefits as a result of their character of service;
- persons ordered to report to an induction station but was not actually inducted into military service;
- persons convicted of a federal or state capital crime, for which a sentence of imprisonment for life or the death penalty may be imposed and the conviction is final;¹⁹
- persons convicted of subversive activities after September 1, 1959;
- persons whose only service is active duty for training or inactive duty training in the National Guard or Reserve Component, unless the individual meets the eligibility criteria previously listed; or
- members of groups whose service has been determined by the Secretary of the Air Force under the provisions of Title IV of the GI Bill Improvements Act (P.L. 95-202) as not warranting entitlement to VA benefits.

(...continued)

Corey Shea Act, in the Veterans Benefit Act of 2010 (P.L. 111-275).

¹⁵ Hostile casualty is defined as a member of the Armed Forces who dies as the result of hostile action with the enemy, while in combat, while traveling to or from combat if death was related to hostile action, while hospitalized or undergoing treatment for injuries incurred during combat, or was killed mistakenly or accidentally by friendly fire directed at or thought to be directed at a hostile force. It does not include persons who die due to elements, self-inflicted wounds, combat fatigue, or by friendly fire while in an absent-without-leave, deserter, or dropped-from-rolls status, or voluntarily absent from a place of duty.

¹⁶ Effective for deaths of a parent on or after October 13, 2010, whose child (the veteran) died on or after October 7, 2001.

¹⁷ 38 U.S.C. §2402 (a) (6).

¹⁸ For information on funeral honors, see CRS Report RS21545, *Military Funeral Honors and Military Cemeteries: Frequently Asked Questions*, by Barbara Salazar Torreon.

¹⁹ 38 U.S.C. §2411.

Nonmonetary Burial Benefits

Eligible veterans and active duty members of the Armed Forces can be interred in a national cemetery and receive a government-furnished headstone or marker, and in their honor, the veteran's next of kin can receive a presidential memorial certificate and a burial flag.

Headstones, Markers, and Private Cemetery Medallions

Veterans discharged for reasons other than dishonorable and whose deaths occurred on or after November 1, 1990, are eligible for government-furnished headstones or markers.²⁰ Veterans whose deaths occurred before November 1, 1990, are furnished government headstones only if their graves are not marked with private headstones. Spouses and other eligible dependents are eligible for headstones or markers only if they are interred in national, military post or base, or state cemeteries.

Flat markers are available in bronze, granite, and marble; headstones are available in granite and marble. The style must be consistent with existing monuments at the place of burial.²¹ Under current federal regulation, individuals who served in the Armed Forces after September 7, 1980, must have served a minimum of 24 consecutive months on active duty to be eligible for this benefit. However, the VA Secretary can make exceptions under certain circumstances (e.g., death while on active duty).

Memorial headstones, markers, and medallions²² are available for individual veterans or groups of veterans including those who die while on active duty whose remains are not recovered or are unidentified, have remains buried at sea, have remains donated to science, or whose cremated remains have been scattered. Spouses and dependents whose remains are unavailable for interment may also be furnished with memorial headstones in national, military post or base, or state cemeteries. This service is not available for spouses and dependents who are buried in private cemeteries.

Veterans whose deaths occurred on or after November 1, 1990, and are buried in privately marked graves in private cemeteries may be furnished medallions instead of government headstones or markers. The veteran cannot receive both a medallion and a government headstone or marker. Only the next of kin may apply for a headstone, marker, or medallion. The application for a government-furnished headstone, marker, or medallion is available on the VA website.²³

Regardless of the date of death, the VA will furnish the unmarked grave of a veteran, in any cemetery anywhere in the world, with a government headstone or marker.

Inscriptions

Government-furnished headstones and markers must be inscribed with the legal name of the deceased, branch of service, and the year of birth and death, in this order. Memorial markers must also include "*In Memory Of*" at the top. If space is available, the inscription may also contain any or all of the following: veteran's rank, war service, military decorations, awards, and date of birth and death. All of these elements must be inscribed in the English language.

²⁰ Prior to the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), the VA provided headstone allowances for veterans eligible to be buried in a national cemetery, who were buried in a private cemetery.

²¹ For more information, see 38 C.F.R. §30.632.

²² The medallion represents the status of the deceased as a veteran.

²³ See <http://www4.va.gov/vaforms/va/pdf/VA40-1330.pdf>.

Additions to the legal name, such as Doctor or Reverend, are not permitted on the mandatory name line of the headstone or marker. However, terms of endearment, nicknames, and other additional personalized inscriptions may, if space is available, be added at the bottom of the headstone or marker with the approval of the VA, which will determine if the requested inscription is judged to be respectful and in good taste.

Headstones and markers may also include emblems of belief, if so desired by the next of kin. An emblem of belief is defined in regulation as “an emblem that represents the decedent’s religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent.”²⁴ The VA maintains a list of approved emblems of belief.²⁵

Presidential Memorial Certificates

The Presidential Memorial Certificate (PMC) program was initiated in March 1962 by President John F. Kennedy and continued by all subsequent Presidents. The PMC is a gold embossed paper certificate inscribed with the veteran’s name that bears the President’s signature. It honors the memory of honorably discharged deceased veterans.²⁶

The Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012 (P.L. 112-154) extended the PMC program to persons who died in active military, naval, or air service. The application for the PMC is available on the VA website.²⁷

Burial Flag

The VA will provide a free U.S. flag to the next of kin to drape the casket or accompany the urn of a deceased veteran who served honorably in the U.S. Armed Forces. Like the PMC, it is provided to honor the memory of a veteran’s military service to his or her country. Generally, the flag is given to the next of kin at the funeral service as a keepsake. The family may donate the flag to a national cemetery with an Avenue of Flags or “Avenue of Remembrance” to be flown on patriotic holidays.²⁸ The VA will furnish a burial flag to memorialize the following veterans who were discharged under other than dishonorable conditions:²⁹

- veterans who served during wartime;
- veterans who died while on active duty after May 27, 1941;
- veterans who served after January 31, 1955;
- peacetime veterans who were discharged or released before June 27, 1950;

²⁴ 38 C.F.R. §38.632.

²⁵ The list of approved emblems of belief can be viewed at <http://www.cem.va.gov/hmm/emblems.asp>.

²⁶ For more information, see the “Presidential Memorial Certificates” page on the VA website at <http://www.cem.va.gov/pmc.asp>.

²⁷ See <http://www4.va.gov/vaforms/va/pdf/VA40-0247.pdf>.

²⁸ Avenue of Flags is a traditional name used to describe a large display of American flags at VA national cemeteries. See “Cemetery Components – Avenue of Flags,” at <http://www.cem.va.gov/cem/grants/flags.asp>.

²⁹ For more information, see the “Burial Flags” page on the VA website at http://www.cem.va.gov/burial_benefits/burial_flags.asp.

- certain persons who served in the organized military forces of the Commonwealth of the Philippines while in service of the U.S. Armed Forces and who died on or after April 25, 1951; and
- certain former members of the Selected Reserves.

In general, the funeral director assists the next of kin in applying for a burial flag. However, the application is available on the VA website.³⁰

Monetary Burial Benefits³¹

The VA burial allowance is partial reimbursement for the burial and funeral costs of eligible veterans and is not intended to cover the full burial or funeral costs. The allowance amount provided depends on whether the veteran's cause of death was service-connected, non-service-connected, or occurred in a VA facility.

Eligibility

The veteran's next of kin is eligible for reimbursement if he or she paid for the veteran's burial or funeral and has not been reimbursed by another government agency or some other source, such as the deceased veteran's employer.³²

Veteran Requirements

In addition to the above next of kin requirements, the deceased veteran must have been discharged under conditions other than dishonorable and met at least one of the following requirements:

- died because of a service-connected disability;
- was receiving a VA pension or compensation at the time of death;
- was eligible to receive a VA pension or compensation, but decided not to so as to avoid a reduction in his or her military retirement or disability pay;
- died while hospitalized at a VA facility, or while receiving care under VA contract at a non-VA facility;
- died while traveling under proper authorization and at VA expense to or from a specified place for the purpose of medical examination, treatment, or care;
- had an original or reopened claim pending at the time of death and had been found to be entitled to compensation or pension from a date prior to the date of death; or
- died on or after October 9, 1996, while a patient at a VA-approved state nursing home.

³⁰ See <http://www.vba.va.gov/pubs/forms/VBA-27-2008-ARE.pdf>.

³¹ For the Legislative History of Monetary Burial Benefits, see **Appendix A**.

³² For more information, see the "Burial and Plot-Interment Allowances" page on the VA website at <http://www.cem.va.gov/bbene/benvba.asp>.

Burial and Plot-Interment Allowance Amount

Non-Service-Connected Deaths

The VA is authorized to pay up to \$300 toward a veteran's funeral and burial expenses and up to \$745 toward plot-interment costs.³³

A veteran's net assets at the time of death do not affect the amount of burial allowance that the next of kin can receive. However, the allowance will be reduced if the burial expenses are paid by the veteran's employer, state, or another government source.³⁴ In either case, the burial allowance is limited to the difference between the amount the veteran's employer or another government source pays and the maximum amount the Secretary of VA may reimburse. No burial allowances are paid to public or private organizations.³⁵

Death in a VA Facility

If the death of a veteran occurred while he or she was in a VA hospital, under VA-contracted nursing home care, or under nursing home care in which payments were being made by the VA (e.g., in a state nursing home), the VA will pay the veteran's burial and funeral costs effective October 1, 2011. Under current policy, effective October 1, 2014, VA will pay a \$747 burial allowance and \$747 for a plot.³⁶ In addition, some or all of the costs for transporting the veteran's remains to the state in which he or she will be interred may be reimbursed. However, the VA does not reimburse the costs for transporting the remains of veterans whose deaths occur in other countries.³⁷

Service-Connected Deaths

The VA may pay up to \$2,000 of the veteran's funeral and burial expenses if the veteran died as a result of a service-connected disability.³⁸ If the veteran's death occurred prior to September 10, 2001, the VA will pay up to \$1,500 of the funeral and burial expenses. If the veteran is buried in a national cemetery, some or all of the cost for transporting the veteran's remains may be reimbursed.

2008 Report Findings and Recommendations

After examining the non-service-connected and service-connected burial and plot allowances, the 2008 VA report found that the allowances were not meeting their original intent. According to the report, "the intent of the burial and plot allowances are to provide financial assistance to be used on behalf of veterans to offset their burial, funeral and plot costs."³⁹ Since 1990, funeral costs

³³ 38 U.S.C. §2302 and the VA, *Survivors Benefits - VA Burial Allowances*, at <http://www.benefits.va.gov/benefits/factsheets/burials/burial.pdf>.

³⁴ State includes any political subdivision or agency of a state.

³⁵ 38 U.S.C. §2302.

³⁶ 38 U.S.C. §2302 and the VA, *Survivors Benefits - VA Burial Allowances*, at <http://www.benefits.va.gov/benefits/factsheets/burials/burial.pdf>.

³⁷ 38 U.S.C. §2402.

³⁸ 38 U.S.C. §2307.

³⁹ VA, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, p. 153, http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf.

have increased at a rate greater than that of other prices. While recognizing that it is not the intent of the VA to cover the cost of the veteran's entire funeral and burial, the report concludes that "significant increases in the allowances are necessary to restore the value of these important benefits to original levels."⁴⁰ Adjustments have been made to the allowances since 1973 (the first year of service-connected burial allowances), but they have not kept up with the inflation of funeral and burial expenses. According to the report, in 1973, the service-connected burial allowance, non-service-connected burial allowance, and plot allowance were found to be 72% of service-connected funeral and burial costs, 22% of non-service-connected funeral and burial costs, and 54% of burial plot costs, respectively. By 2007, the value of these allowances had decreased significantly, representing 23% of service-connected funeral and burial costs, 4% of non-service-connected funeral and burial costs, and 14% of burial plot costs, respectively.⁴¹

The report made two major recommendations:

1. "Establish a basis for each allowance, which should be a percentage of the average cost of a funeral, burial, and burial plot." (See percentages outlined above.)
2. "Develop an annual schedule for reviewing and adjusting the allowances for funeral, burial and burial plot costs using the Consumer Price Index for funeral expenses maintained by the Bureau of Labor Statistics."⁴²

National Cemeteries

The History of National Cemeteries⁴³

The development of national cemeteries began as a result of the increasing number of Civil War casualties. On July 17, 1862, Congress approved legislation authorizing President Abraham Lincoln "to purchase cemetery grounds and cause them to be securely enclosed, to be used as a national cemetery for the soldiers who shall die in the service of the country."⁴⁴ On September 11, 1861, the War Department, under "General Orders No. 75,"⁴⁵ made the Army's Quartermaster-General responsible for the burial of all officers and soldiers and for keeping a burial register. Before the 1862 legislation was enacted, soldiers were buried in family-selected private cemeteries, military post cemeteries, or at the sites of their deaths. The first 14 national cemeteries were established in 1862.

After the Civil War ended in 1865, the Army Quartermaster Department began the Federal Reburial Program to "search for, recover, and identify the remains of all Union soldiers." Despite extensive efforts, many of the dead soldiers could not be located, and the identities of nearly half of those recovered and reburied were unknown. By 1870, approximately 300,000 Union soldiers

⁴⁰ Ibid., pp. 152-162.

⁴¹ Ibid., p. 161.

⁴² Ibid., pp. 161-162.

⁴³ More detailed history is available on the VA website on the "History and Development of the National Cemetery Administration" page at <http://www.cem.va.gov/docs/factsheets/history.pdf>. For the Legislative History of National Cemeteries, see **Appendix B**.

⁴⁴ 12 Stat. 596, Ch. 200 (1862).

⁴⁵ The text is available on the National Park Service website at <http://www.nps.gov/policy/DOrders/75A.htm>.

were recovered and buried in 73 national cemeteries, most of which were located in the southeastern United States near Civil War battlefields and campgrounds.

The National Cemetery Act of 1867, enacted on February 22, 1867, was the first major piece of legislation to provide funds and directives to national cemeteries.⁴⁶ A number of amendments to the National Cemetery Act of 1867 were passed in the 1870s. On March 3, 1873, Congress passed an amendment that expanded eligibility and permitted “the interment of honorably discharged Soldiers, Sailors, and Marines” in national cemeteries.⁴⁷ This change established 47 new cemeteries; replaced the original wooden headstones with more durable marble headstones; and improved the aesthetics of the new cemeteries, led by Army Quartermaster-General Montgomery C. Meigs with recommendations from landscape architect Frederick Law Olmsted.

Near the end of the 19th century, former Union and Confederate soldiers began to reconcile their differences and seemed to develop a sense of unity. The feeling spread throughout the country and eventually to Washington, DC. As a result, 264 Confederate soldiers were “re-interred into a newly created ‘Confederate section’ at Arlington National Cemetery in 1901.”

The 1930s proved to be a time of great change in operations for national cemeteries. Congress established the Veterans Administration (VA) in 1930 and made it responsible for the National Homes for Disabled Volunteer Soldiers (NHDVS), later referred to as the National Homes for Disabled Veterans, and the 21 cemeteries located on these properties. On July 10, 1933, Section 2 of Executive Order No. 6166 transferred 11 national cemeteries “from custody of the War Department and Army to the National Park Service (NPS) under the Department of the Interior (DOI).”⁴⁸ In 1934, eight World War I cemeteries established abroad were transferred to the custody of the American Battle Monuments Commission (ABMC).⁴⁹

The next three decades were marked primarily by legislation that extended burial eligibility to certain categories of individuals who were not previously eligible to be buried in national cemeteries. In 1967, however, President Lyndon Johnson directed the VA to conduct a survey of veteran and Army national cemetery programs. The VA submitted its report on March 18, 1968, Congress later passed the National Cemeteries Act of 1973 (P.L. 93-43), which authorized the transfer of 82 national cemeteries and the procurement of government headstones and markers from the Department of the Army to the Veterans Administration. The Army, however, maintained control and responsibility for Arlington National Cemetery in Arlington, VA, and The U.S. Soldiers’ and Sailors’ Home National Cemetery in Washington, DC.

When the official transfer took place on September 1, 1973, the VA elevated its 21 NHDVS cemeteries to the status of national cemeteries. Combined, the newly structured system consisted of 103 cemeteries. The 1973 act also permanently established the Advisory Committee on Cemeteries and Memorials. Under the VA, the National Cemetery System (NCS), in its first decade of operation, experienced the largest acreage expansion since the Civil War. Thirteen new national cemeteries were established during the 1970s and 1980s. In 1986, Congress passed the Veteran’s Benefits Improvement and Health Care Authorization Act of 1986 (P.L. 99-576), which ordered the VA to identify the U.S. areas that were in the greatest need of veteran burial grounds.

⁴⁶ 14 Stat. 399, Ch. 39 (1867).

⁴⁷ 17 Stat. 605, Ch. 276 (1873).

⁴⁸ The text of Executive Order No. 6166 is available on the National Archives and Records Administration website at <http://www.archives.gov/federal-register/codification/executive-order/06166.html>.

⁴⁹ For more information on the American Battle Monuments Commission (ABMC), see the ABMC website at <http://www.abmc.gov/>.

On November 11, 1998, President Bill Clinton signed the Veterans Programs Enhancement Act of 1998 (P.L. 105-368). Section 403 of this law changed the name of the National Cemetery System to the National Cemetery Administration (NCA), and it elevated the position of director of the National Cemetery System to Under Secretary for Memorial Affairs. In 1999, the Veterans Millennium Health Care and Benefits Act (P.L. 106-117) required the VA to study future burial needs and mandated the creation of six new national cemeteries in the areas where they were most needed. The National Cemetery Expansion Act of 2003 (P.L. 108-109), enacted on November 11, 2003, authorized the creation of the six new cemeteries.

Since the inception of national cemeteries in 1862, there have been more than 3 million burials in national cemeteries around the United States. Today, there are 131 national cemeteries, along with 33 soldiers' lots and monument sites, under the jurisdiction of the VA.

Establishing National Cemeteries

The Secretary of VA has the authority to acquire land for national cemeteries “by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, exchange, or otherwise” at his discretion.⁵⁰ Although the Secretary has complete autonomy on where the cemeteries should be placed, the VA has a policy designed to place them in the most-needed areas.

Current VA policy is that a cemetery be established if there are 80,000 or more unserved veterans within 75 miles of a proposed cemetery site.⁵¹ In addition, the VA has begun an “urban initiative” to establish a secondary columbaria, crypt, or mausoleum facility to provide additional burial options for high-density urban areas with a national cemetery. Building a new national cemetery is a six-step process: (1) site selection; (2) environmental assessment; (3) land acquisition; (4) master planning and design development; (5) construction documents preparation; and (6) construction award and completion.⁵²

The VA has also established a Rural Initiative to provide additional options for veterans in rural areas. Under the initiative, the VA will build National Veterans Burial Grounds within existing public or private cemeteries in rural areas where the unserved veteran population is 25,000 or less within a 75-mile radius. A National Veterans Burial Ground is a small, VA-managed section of three to five acres within an existing public or private cemetery. VA will provide a full range of burial options and control the operation and maintenance of these lots. These sections will be held to the same “national shrine” standards as VA-run national cemeteries.

In addition to establishing national cemeteries, the VA assists in establishing state veterans cemeteries. The State Cemetery Grant Program established in 1978 provides burial funds for states, federally recognized tribal governments, or U.S. territories where national cemeteries do not meet veterans' burial needs. The VA can fund up to 100% of the development cost for the purpose of “establishing, expanding, or improving Veterans cemeteries.”⁵³ Cemeteries established under the program must operate according to the rules, regulations, and guidelines of the NCA.⁵⁴

⁵⁰ 38 U.S.C. §2406.

⁵¹ Unserved veterans are those veterans without the option of a national or state cemetery.

⁵² For more information, see the VA website's “National Cemetery Development” page at <http://www.cem.va.gov/cem/docs/factsheets/newcemdev.pdf>.

⁵³ For more information, see the VA website's “State Cemetery Grants Program – Grant Information Kit” page at http://www.cem.va.gov/cem/grants/information_kit.asp.

⁵⁴ *Ibid.*

Under the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (P.L. 99-576), and more recently the Millennium Health Care and Benefits Act (P.L. 106-117), Congress required the NCA to submit reports on the current and future need for national cemeteries. The reports are primarily logistical recommendations on how best to reach their established goal of servicing 90% of veterans in need of burial services.⁵⁵

To date, the VA has released four such reports. The 1987 and 1994 reports both identified 10 areas around the United States that were in the greatest need of veteran burial space and recommended against "NCS acquisition of state veterans' cemeteries . . . noting that the states were particularly useful in providing services in less populous areas."⁵⁶ The 1994 report also recommended continuing the expansion of existing cemeteries, stating that expansion is "a viable alternative to opening new cemeteries."⁵⁷ As a result of the reports, seven new cemeteries were established and a number of existing cemeteries were expanded.

The 2001 report submitted to Congress concluded that the establishment and first-year operation costs for a national cemetery range "between \$16 million and \$25 million."⁵⁸ The report also made the following major recommendations: "Continue to encourage grant program cemeteries; Continue to examine ways to expand the service life of existing cemeteries; Build new national cemeteries at or near the locations recommended . . . in combination with the previous options."⁵⁹

According to the most recent 2008 report, "No location in the U.S. will meet the criteria for the establishment of a new national cemetery under the current service area standard (i.e., 75-miles, 170,000 veterans) until 2015."⁶⁰ At that time, the only community that met the qualifying population threshold of 170,000 was the St. Louis, MO, metropolitan area because of the planned closing of Jefferson Barracks National Cemetery around 2017.⁶¹ The report recommends retaining the 75-mile service area standard, but reducing the veteran population threshold from 170,000 to 110,000 to increase the number of unserved communities that could qualify for a new national cemetery. This change would allow two unserved communities to qualify for new national cemeteries: Charleston, WV, and Schuyler, NE.⁶²

The Veterans' Benefits Act of 2010 (P.L. 111-275) required the Secretary to report, within one year, on the site selection, schedule for establishment, and required funding for establishment of new cemeteries in five areas: (1) in Southern Colorado; (2) near Melbourne, FL, and Daytona, FL; (3) near Omaha, NE; (4) near Buffalo, NY, and Rochester, NY; and (5) near Tallahassee, FL. The Secretary is required to report every two years afterward until the cemeteries are established. The Tallahassee National Cemetery and Cape Canaveral National Cemetery opened in 2015 and the VA expects to open a new national cemetery in Omaha in 2016.⁶³

⁵⁵ Logistics Management Institute, *Veterans Millennium Health Care and Benefits Act of 1999 Study on Improvements to Veterans Cemeteries, Volume 1: Future Burial Needs*, December 2001, pp. 1-3.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*, pp. 1-3.

⁵⁸ *Ibid.*, pp. 3-12.

⁵⁹ *Ibid.*, pp. 3-12.

⁶⁰ Department of Veterans Affairs, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, p. 73, http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf.

⁶¹ *Ibid.*, p. 165.

⁶² *Ibid.*, p. 74 (PDF p. 101).

⁶³ The Cape Canaveral National Cemetery opened for interments in 2015 and will begin accepting burials in 2016. VA, *FY2017 Budget Submission, Vol. III: Benefits and Burial Programs and Departmental Administration*, February 2016, p. NCA-9.

Recent Legislation

Below are summaries of laws passed during the 112th Congress (2011-2012) and 113th Congress (2013-2014) that pertain to eligibility and burial in national veterans' cemeteries.

The Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (P.L. 112-260)

Signed on January 10, 2013, P.L. 112-260 allows for the dignified burial for deceased veterans with no known next of kin.⁶⁴ It excludes persons convicted of committing certain sex offenses from interment or memorialization in national cemeteries, Arlington National Cemetery, and certain state veterans' cemeteries and from receiving certain funeral honors. In addition, this act directs the ABMC to operate and maintain the Clark Veterans Cemetery located in the former Clark Air Force Base in the Philippines following an agreement between the Republic of the Philippines and the United States. The agreement was signed on December 16, 2013, making Clark ABMC's 25th cemetery.⁶⁵ The cemetery holds the remains of 8,600 people, including 2,200 Americans and nearly 700 allied Philippine Scouts who took part in conflicts from the early 1900s to the resistance against the Japanese occupation in World War II.⁶⁶

The Alicia Dawn Koehl Respect for National Cemeteries Act of 2013 (P.L. 113-65)

Signed on December 20, 2013, P.L. 113-65 authorizes the Secretary of Veterans Affairs and the Secretary of the Army "to reconsider decisions to inter or honor the memory of a person in a national cemetery." It allows for the disinterment of remains of accused murderer Michael Lashawn Anderson, a veteran who served in Afghanistan. Anderson was buried in 2012 at the Fort Custer National Cemetery in Michigan days after a shooting spree at an Indianapolis apartment complex where Anderson allegedly murdered Alicia Dawn Koehl and shot three others before killing himself.⁶⁷ This law establishes a new process to remove remains of a person believed to have committed murder but never convicted because they fled prosecution or died before they were charged. It would also apply to the removal of cremated remains and memorial markers. Anderson's remains were exhumed on February 19, 2014, and transferred to a private cemetery.⁶⁸

⁶⁴ VA's Official Blog, "VA Resources for Dignified Burial of Unclaimed Veterans," June 9, 2015, at <http://www.blogs.va.gov/VAntage/20604/va-resources-for-dignified-burial-of-unclaimed-veterans/>.

⁶⁵ American Battle Monuments Commission (ABMC), "Clark Veterans Cemetery: Philippines," at <https://www.abmc.gov/cemeteries-memorials/pacific/clark-veterans-cemetery#.VdTGhfnVtsk>.

⁶⁶ Jim Gomez, "US, Manila ink Pact to Repair Ash-covered Cemetery in Clark," *Philippine Star*, December 17, 2013, at <http://www.philstar.com/headlines/2013/12/17/1269129/us-manila-ink-pact-repair-ash-covered-cemetery-clark>.

⁶⁷ Rock Maze, "Bill passed to Disinter Veteran from Fort Custer Cemetery," *Navy Times*, December 11, 2013, at <http://archive.navytimes.com/article/20131211/NEWS05/312110029/Bill-passed-disinter-veteran-from-Fort-Custer-cemetery>. See also 38 U.S. Code § 2411, Prohibition against interment or memorialization in the National Cemetery Administration or Arlington National Cemetery of persons committing Federal or State capital crimes at <https://www.law.cornell.edu/uscode/text/38/2411>.

⁶⁸ Kristine Guerra, "Body of Vet Accused in Killing Exhumed from National Cemetery," *Indy Star*, February 19, 2014, at <http://www.indystar.com/story/news/2014/02/19/body-of-vet-accused-in-killing-exhumed-from-national-cemetery/5624753/>.

Appendix A. Legislative History of Monetary Burial Benefits (Funeral, Burial, and Plot Allowances)

The earliest reference to a federal monetary burial allowance for veterans was during World War I. Changes made to the burial allowance for veterans between 1917 and 2010 are as follows:

1917: War Risk Insurance Act Amendment (P.L. 65-90)

Provided a maximum payment of \$100 for a veteran's burial expenses and the return of the veteran's remains to his home if the death occurred before discharge or resignation from military service.

1924: World War Veterans' Act, 1924 (P.L. 68-242)

Established service-connected and non-service-connected burial allowances of \$100.

1933: P.L. 73-2

Increased both service-connected and non-service-connected burial allowances to \$107.

1936: P.L. 74-844

Provided that the burial allowance would not be denied based on the deceased veteran's net assets at the time of death. This law further established a one-year limit after burial for filing a claim for the allowance; required the Veterans Administration (VA) to notify the claimant of any information required to complete the claim; and stipulated that the allowance would not be granted if the evidence was not provided within one year of the date of the request.

1957: Veterans' Benefits Act of 1957 (P.L. 85-56)

Provided a burial allowance of \$150 to cover burial and funeral expenses, preparation of the body, and transportation to the place of burial for a deceased veteran of any war who had been discharged from active military service due to disability or was receiving disability compensation. The burial allowance was not to be denied based on the veteran's net assets at the time of death. The allowance would be reduced by any contributions paid by a government agency, the deceased veteran's employer, or a burial association and the balance of the burial allowance (up to the \$150) would be paid to the claimant.

1958: P.L. 85-674

Increased the burial allowance to \$250.

1958: P.L. 85-857

Mandated VA to pay the \$250 burial allowance for a veteran who died in a VA facility if the veteran had been properly admitted for hospital or domiciliary care. The VA was permitted to enter into contracts to provide the burial and funeral services for veterans who died in VA facilities. P.L. 85-857 also mandated the VA to pay for transporting the bodies of veterans who died in VA facilities to the place of burial; and clarified that the \$250 burial allowance was not to be paid for deaths prior to August 19, 1958. P.L. 85-857 extended the filing period for reimbursement claims to two years after the burial of the veteran.

1964: P.L. 88-359

Eliminated the offset against the VA burial allowances for amounts paid by burial associations.

1966: P.L. 89-360

Extended the \$250 burial allowance to peacetime veterans who died because of service-connected disabilities but had not applied for disability compensation.

1973: National Cemeteries Act of 1973 (P.L. 93-43)

Provided a plot or interment allowance of \$150 for veterans who were not buried in national cemeteries. This allowance was applied to the difference between the total plot or interment expenses and the amount paid by a state, a state agency or subdivision, or the deceased veteran's employer. P.L. 93-43 also required the VA to provide headstones or markers for unmarked graves of veterans buried in national or military post or base cemeteries; certain individuals eligible for burial in national cemeteries, but not buried in national cemeteries; and soldiers of the Union and Confederate Armies of the Civil War. The VA also was mandated to provide headstones or markers, when requested, for veterans whose remains had not been recovered or were buried at sea for placement by the applicants. P.L. 93-43 also provided that the survivors of veterans who died due to service-connected disabilities may request that the VA pay burial and funeral expenses at the amount authorized for the death of a federal employee due to an injury incurred in the performance of duty (\$800) instead of the standard VA burial and plot allowances.

1978: Veterans' Housing Benefits Improvement Act of 1978 (P.L. 95-476)

Extended the \$150 plot allowance to states (or their political subdivisions) for the burial of veterans eligible for burial in national cemeteries in state veterans' cemeteries. If the veterans are not buried in cemeteries (or portions of cemeteries) that are solely for the interment of persons eligible for burial in national cemeteries, the plot allowance is limited to those total costs not paid by the states (or their political subdivisions) or the veterans' employers.

1978: Veterans Disability Compensation and Survivors' Benefits Act of 1978 (P.L. 95-479)

Increased the burial allowance to \$300. P.L. 95-479 also limited the burial and funeral expenses paid for a veteran who died of a service-connected disability to \$1,100.

1981: Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35)

Limited payment of the burial allowance to the cases of veterans who were eligible to receive pensions or disability compensation.

1982: Veterans' Compensation, Education, and Employment Amendments of 1982 (P.L. 97-306)

Provided that the VA administrator may pay the burial allowance to states (or their political subdivisions) that are holding the bodies of eligible indigent deceased veterans whose remains are unclaimed and for whom there are insufficient resources to cover burial and funeral expenses. P.L. 97-306 also provided that the burial allowance would be paid for veterans who died in VA-contracted nursing homes.

1988: Veterans' Benefits and Services Act of 1988 (P.L. 100-322)

Increased the burial allowance for veterans who died from service-connected disabilities to \$1,500.

1996: Veterans' Benefits Improvements Act of 1996 (P.L. 104-275)

Provided that a \$300 burial allowance would be paid for veterans who died in state nursing homes.

2000: Veterans Benefits and Health Care Improvement Act of 2000 (P.L. 106-419)

Extended the plot and interment allowance for burial in state veterans' cemeteries to members, or former members, of Armed Forces reserve components not otherwise eligible for burial in national cemeteries. P.L. 106-419 also extended eligibility for interment in national cemeteries to certain Filipino veterans of World War II.

2001: Veterans Education and Benefits Expansion Act of 2001 (P.L. 107-103)

Increased the plot allowance to \$300 and the burial and funeral allowance for veterans who died due to service-connected disabilities to \$2,000.

2010: Veterans' Benefits Act of 2010 (P.L. 111-275)

Increased plot allowance to \$700 effective October 1, 2011, and provided for an inflation adjustment beginning in FY2013.

Appendix B. Legislative History of National Cemeteries

The earliest reference to the national cemetery program is found in General Orders No. 75 (1861). Subsequent major changes that were made to the national cemetery program are as follows:⁶⁹

1861: General Orders No. 75

Made Quartermaster responsible for the burial of (Union) officers and soldiers and for keeping a register of all burials. It also stipulated that a headstone was to be placed at the head of each grave.

1867: National Cemetery Act (Chapter 61 of the Acts of the 39th Congress)

Provided funds and set guidelines for the establishment and protection of national cemeteries.

1872: Chapter 173 of the Acts of the 42nd Congress

Authorized the Secretary of War to appoint “meritorious and trustworthy” soldiers as superintendents of national cemeteries.

1872: Chapter 257 of the Acts of the 42nd Congress

Amended the National Cemetery Act to allow all honorably discharged soldiers and sailors who were destitute to be buried in national cemeteries.

1873: Chapter 276 of the Acts of the 42nd Congress

Allowed all honorably discharged soldiers, sailors, and marines who served in the Civil War in the regular or volunteer forces to be buried in national cemeteries at no cost.

1906: P.L. 59-38

Provided for the appropriate marking of the graves of Confederate soldiers and sailors who died in northern prisons and military hospitals and were buried near those prisons and hospitals.

1920: P.L. 66-175

Expanded eligibility for burial in national cemeteries to U.S. citizens “who served in the Army or Navy of any government at war with Germany or Austria during the World War” and who died during service or after being honorably discharged.

1923: P.L. 67-534

Established the American Battle Monuments Commission (ABMC) to erect suitable memorials commemorating the service of American soldiers in Europe.

⁶⁹ Department of Veterans Affairs, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, pp. 15-20 (PDF), http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf.

1930: P.L. 71-536

Established the Veterans Administration (VA) and made it responsible for the National Homes for Disabled Volunteer Soldiers (NHDVS) and the 21 cemeteries located on those properties.

1933: Executive Order No. 6166

Transferred 11 national cemeteries from the custody of the War Department and the Army to the National Park Service under the Department of the Interior.

1948: P.L. 80-526

Expanded eligibility for burial in a national cemetery to the eligible survivors of veterans.

1959: P.L. 86-260

Expanded eligibility for burial in national cemeteries to Army or Air National Guard and Reserves and to Reserve Officer Training Corps (ROTC) members if they were doing exercises or were on active duty at the time of death.

1973: National Cemetery Act of 1973 (P.L. 93-43)

Transferred custody of national cemeteries from the Army to VA's newly established National Cemetery System (NCS). VA cemeteries were elevated to national cemetery status. The Army retained control of Arlington National Cemetery and the cemetery at the U.S. Soldiers' and Airmen's Home. The NCS was given responsibility for veterans' headstones and markers. This law distinguished between service-connected and non-service-connected deaths for allowances. It added benefit of transportation of remains under certain circumstances.

1978: Veterans' Housing Benefits Act of 1978 (P.L. 95-476)

Authorized the VA to pay a \$150 burial allowance to states for the burial of veterans eligible to be buried in national cemeteries in state veterans' cemeteries. Authorized a grant assistance program to states to establish, expand, and improve state veterans' cemeteries.

1986: Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (P.L. 99-576)

Mandated the VA to conduct studies to identify the 10 geographic areas within the United States with the greatest need for additional veterans' burial space.

1997: Prohibit Interment or Memorialization in Certain Cemeteries of Persons Committing Federal or State Capital Crimes (P.L. 105-116)

Prohibited the interment or memorialization in the National Cemetery System or Arlington National Cemetery of persons convicted of federal or state capital crimes, including those sentenced to death or life imprisonment without parole.⁷⁰

⁷⁰ On November 21, 1997, President Clinton signed P.L. 105-116 into law, which prohibited convicted Oklahoma City bomber Timothy McVeigh from being buried in any military cemetery. McVeigh was a Persian Gulf War veteran and executed by lethal injection on June 11, 2001.

1998: Veterans Programs Enhancement Act of 1998 (P.L. 105-368)

Redesignated the National Cemetery System as the National Cemetery Administration, and designated the position of director of the National Cemetery System as the Under Secretary for Memorial Affairs. Authorized the VA to provide up to 100% of the development cost for an approved project and provide for operating equipment for establishment of new cemeteries. VA does not provide for acquisition of land. It also extended eligibility for burial in a national cemetery to qualified merchant mariners.

1999: Veterans Millennium Health Care and Benefits Act (P.L. 106-117)

Directed the VA Secretary to contract with one or more qualified organizations to conduct independent studies for improvements to veterans' burial benefits and for improvements to veterans' cemeteries. Mandated the Secretary to establish national cemeteries in the six U.S. areas where they are most needed.

2002: Veterans Benefits Act of 2002 (P.L. 107-330)

Established procedures for disqualification of persons who committed capital crimes for interment or memorialization in national cemeteries, and prohibited certain additional benefits such as the Presidential Memorial Certificate, burial flag, and headstone or marker.

2003: National Cemetery Expansion Act of 2003 (P.L. 108-109)

Authorized the establishment of six new national cemeteries in the following areas: Birmingham, AL; Bakersfield, CA; Jacksonville, FL; Sarasota County, FL; southeastern Pennsylvania; and Greenville/Columbia, SC.

2003: Veterans Benefits Act of 2003 (P.L. 108-183)

Expanded eligibility for burial in a national cemetery to remarried surviving spouses of deceased veterans. Permanently authorized the state veterans' cemeteries grant program under the VA.

2006: Veterans Benefits, Health Care, and Information Technology Act of 2006 (P.L. 109-461)

Authorized eligibility of federally recognized tribal governments in establishing, expanding, or improving veterans' cemeteries on trust land owned by, or held in trust for, the tribal organization. Section 404 of this act authorized the removal of the remains of Russell Wayne Wagner from Arlington National Cemetery. Wagner was an honorably discharged Vietnam veteran but convicted of killing an elderly Maryland couple in 1994 making him ineligible to be buried at Arlington or any veterans' cemetery.⁷¹

2007: Dr. James Allen Veteran Vision Equity Act of 2007 (P.L. 110-157)

Provided for a government headstone or marker for the graves of eligible veterans who died on or after November 1, 1990, regardless of whether the grave is already marked with a privately

⁷¹ See "Who Is Ineligible for Military Funeral Honors?" in CRS Report RS21545, *Military Funeral Honors and Military Cemeteries: Frequently Asked Questions*, by Barbara Salazar Torreón.

purchased headstone or marker. Previously, when the grave was already marked, only veterans who died on or after September 11, 2001, were eligible.

2010: Veterans' Benefits Act of 2010 (P.L. 111-275)

Section 502, the Corey Shea Act, expanded eligibility for burial in a national cemetery to parents of certain interred veterans and required a new study for establishing cemeteries in five designated areas.

2012: Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (P.L. 112-260)

Ensured dignified burial for deceased veterans with no known next of kin, furnished caskets and urns for veterans with no known next of kin, and provided for the identification and burial of unclaimed or abandoned human remains. It also directed the ABMC to operate and maintain Clark Veterans Cemetery following an agreement between the Republic of the Philippines and the United States signed in December 2013.

2013: Alicia Dawn Koehl Respect for National Cemeteries Act, (P.L. 113-65)

Authorized the Secretary of Veterans Affairs and the Secretary of the Army to reconsider decisions to inter or honor the memory of a person in a national cemetery, and allowed for the disinterment of remains of Michael Lashawn Anderson from Fort Custer National Cemetery.

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Acknowledgments

This report was originally written by Armaad R. Morman and updated by Umar Moulta-Ali and Barbara Salazar Torreón. All questions should be directed to the current author.